



Crl.O.P.(MD)No.4485 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED :26.02.2025

CORAM :

THE HON'BLE MR.JUSTICE P. DHANABAL

Crl.O.P.(MD)No.4485 of 2024

Mariam Jenifer

... Petitioner

Vs.

Venkateswari

... Respondent

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records related to the Impugned Order Cr.M.P.No.5261 of 2023 in S.T.C.No.551 of 2021 dated 20.02.2024 on the file of the learned Judicial Magistrate No.II, Fast Track No.II, (Magisterial Level), Madurai District and set-aside the same.

For Petitioner : Mr.S.Karthikeyan

For Respondent : Mr.S.Thirunavukarasu

ORDER

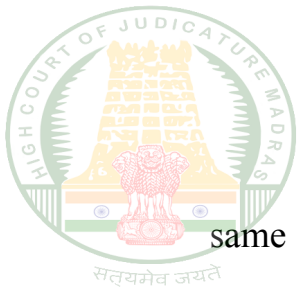
This petition has been filed by the petitioner to quash the order passed in Crl.M.P.No.5261 of 2023 in S.T.C.No.551 of 2021 dated 20.02.2024 on the file of the learned Judicial Magistrate No.II, Fast Track No.II, Madurai District.



Crl.O.P.(MD)No.4485 of 2024

2. According to the petitioner, she is the accused in S.T.C.No.551 of 2021 on the file of the learned Judicial Magistrate No.II, Fast Track Court No.II, Madurai and she filed a petition under Sections 45 and 47 of the Indian Evidence Act read with 243 (2) of Cr.P.C., to send the disputed cheque to the handwriting expert for opinion since the signature found in the cheque was not belonged to the petitioner. But, the said petition was dismissed by the Trial Court on the ground that, already the trial has been completed and the petitioner has also not denied the signature found in the cheque. Per contra, the plea taken by the petitioner was that the cheque was bounced. In fact, the petitioner had denied the signature found in the cheque, but the Trial Court without considering the same, dismissed the petition. Therefore, the order passed by the Trial Court is liable to be set aside.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the accused in the cheque case and the petitioner has filed a petition before the Trial Court to compare the signature found in the cheque with the bank documents, but the same has not been considered by the Trial Court and dismissed on the ground that the case of the petitioner is that the cheque was stolen, but not denied the signature. In fact, the petitioner has denied the signature. However, the Trial Court has failed to consider the



Crl.O.P.(MD)No.4485 of 2024

same and therefore, the order passed by the Trial Court is liable to be set aside.

4. The learned counsel appearing for the respondent would submit that already after completion of trial Section 313 (1)(b) of Cr.P.C, the examination was over and thereafter, the petitioner has filed this petition and the petitioner has not denied the signature found in the cheque. The only defence of the petitioner is that the cheque was stolen by her spouse and not given by the petitioner. Therefore, the Trial Court passed a reasoned order and this petition is filed only to delay the proceedings and same is liable to be dismissed.

5.This Court heard both sides and perused the records.

6. In this case, the respondent gave a cheque complainant against the petitioner and the same is pending at the stage of defence witness and posted for defence evidence after completion of evidence by the complainant's side and examination of accused under Section 313(1)(b) of Cr.P.C. The case is pending from the year 2021 and the petitioner has already taken a plea that the alleged cheque was stolen and did not deny the signature found in the cheque. Therefore, the Trial Court has passed a



Crl.O.P.(MD)No.4485 of 2024

reasoned order that the substance of the accusation that the accused did not deny her signature found in the cheque and alleging that the cheque was stolen. The cheque was returned only for the reason “funds insufficient” and not for the reason "signature differs or not matched”. Therefore, the reasoned order dated 20.02.2025 in Crl.M.P.No.5261 of 2023 in S.T.C.No. 551 of 2021 passed by the Trial Court warrants no interference.

7. In view of the same, this Court is of the view that this petition has no merits and deserves to be dismissed. Accordingly, this Criminal Original Petition is dismissed. No costs.

26.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
mac



WEB COPY



CrI.O.P.(MD)No.4485 of 2024

P. DHANABAL, J.,

mac

To
The Judicial Magistrate Court No.II,
Fast Track No.II, (Magisterial Level),
Madurai District.

CrI.O.P.(MD)No.4485 of 2024

26.02.2025