



CrI.R.C.(MD)No.1395 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.04.2025

Pronounced on : 04.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.R.C.(MD)No.1395 of 2024

and

CrI.M.P.(MD)No.14146 of 2024

Barakath

... Petitioner

Vs.

Sajitha Banu

... Respondent

Prayer : This Criminal Revision Case filed under Section 438 and 442 B.N.S.S., to call for the records in Cr.M.P.No.8886 of 2024 in CIS CrI.M.P.No.735 of 2024 in S.T.C.No.157 of 2023 dated 28.10.2024 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District and set aside the same by allowing this revision.

For Petitioner : Mr.K.Yasar Arafath

For Respondent : Mr.K.Sathish Kumar



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ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.8886 of 2024 in S.T.C.No.157 of 2023 dated 28.10.2024 on the file of the Court of the Judicial Magistrate, Paramakudi, in dismissing the petition filed under Section 45 and 46 of the Indian Evidence Act.

2. The petitioner is the accused and the respondent as the complainant has filed a private complaint under Section 200 Cr.P.C. for the alleged offence under Section 138 r/w 142 of Negotiable Instruments Act. When the trial of the case was in part-heard stage, the petitioner has filed the above petition under Section 45 of the Indian Evidence Act to send the disputed cheque along with specimen signature of the petitioner to the handwriting expert and to get opinion.

3. The case of the petitioner, canvassed in the petition filed under Section 45 of the Indian Evidence Act, is that the cheque in dispute was not at all given by the petitioner for any legal enforceable debt to the respondent, that the petitioner borrowed a loan of Rs.2,45,000/- from the

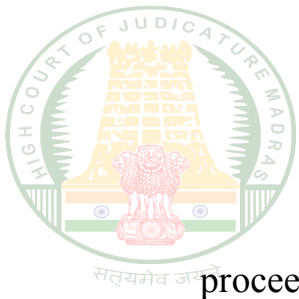


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respondent's father and gave a signed pronote and a blank cheque without signature for security purposes, that though the petitioner had repaid the principal as well as the interest, the respondent's father had refused to return the original documents but demanded more interest and as a result of which, there arose a wordy quarrel between them, that the respondent's father due to that issue and to take vengeance, filled up that blank cheque, put the petitioner's signature using the pronote model signature and filed the above case through his son/respondent herein, that the respondent's father has also filed a suit for recovery of money through one Abdul Majeed in O.S.No.37 of 2023 and the same is pending on the file of the Sub Court, Paramakudi by misusing the signed blank pronote and that since the petitioner has not signed the cheque in dispute, the same has to be proved and for that purpose, it has become just and necessary to send the disputed cheque to the handwriting expert and to get opinion.

4. The respondent has filed a counter statement raising objections stating that in the reply notice sent by the petitioner in pursuant to the statutory notice sent by the respondent, the petitioner has not disputed the signature found in the cheque, that the respondent is not aware of the suit



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proceedings in O.S.No.37 of 2023 alleged by the petitioner and that the petitioner, by admitting the signature found in the cheque, has filed the above petition only to drag on the proceedings.

5. It is not in dispute that the respondent before filing the complaint has sent a legal notice dated 22.01.2023 to the petitioner demanding the amount covered by the cheque and the petitioner having received the legal notice sent a reply notice dated 06.02.2023.

6. The main contention of the respondent is that in the reply notice, the petitioner has only alleged that he obtained a loan of Rs.2,45,000/- from the respondent's father and gave a handwritten pronote and signed Rs.20/- stamp papers as a security and that the petitioner has not stated anything about the case cheque. The petitioner has not disputed the above factum.

7. The petitioner, in the petition filed under Section 45 of the Indian Evidence Act, has nowhere stated that he disputed or denied the signature found in the cheque in dispute in the reply notice dated 06.02.2023.



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Moreover, it is pertinent to note that though the respondent was examined as P.W.1 as early as on 22.09.2023, the petitioner has not chosen to cross-examine the respondent till filing of the above petition. More importantly, the learned Magistrate, in the impugned order, has specifically observed that the petitioner has not denied his signature found in the disputed cheque in the reply notice exhibited as Ex.P.7 through P.W.1. As rightly contended by the learned counsel appearing for the respondent, the petitioner for the first time has disputed his signature found in the case cheque in the petition filed under Section 45 of the Indian Evidence Act and nowhere earlier. It is pertinent to note that the petitioner has not even chosen to produce the reply notice to show the defence allegedly taken by him.

8. Considering the entire facts and circumstances and the stage at which the above petition came to be filed, as rightly observed by the learned Magistrate, the above petition came to be filed only to protract the proceedings as much as possible. Hence, this Court concludes that the impugned order dismissing the petition filed under Section 45 of the Indian Evidence Act by the learned Magistrate cannot be found fault with.



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Consequently, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

9. In the result, this Criminal Revision Case stands dismissed.

Consequently, connected Miscellaneous Petition is closed. No costs.

04.08.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1.The Judicial Magistrate,
Paramakudi.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
Crl.R.C.(MD)No.1395 of 2024
and
Crl.M.P.(MD)No.14146 of 2024

Dated : 04.08.2025