



Crl.R.C.(MD).No.1052 of 2024

'BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.10.2024

PRONOUNCED ON 29.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1052 of 2024

and

Crl.MP(MD)No.11540 of 2024

Vaitheeswaran

... Revision Petitioner/Appellant/
Sole Accused

Vs.

The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram,
Crime No.51 of 2018.

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 Cr.P.C., to call for the records in Crl.M.P.No.1201 of 2024 in S.C.No.70 of 2019, on the file of the Principal Sessions Judge, Ramanathapuram which was dismissed on 03.06.2024 and set aside the same and further to direct the lower Court to send disputed signatures made by P.W.14 in confession statement and in signature mahazar to get expert opinion.



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For Petitioner : Mr.R.Babu Jaganath

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No. 1201 of 2024 in S.C.No.70 of 2019, dated 03.06.2024, on the file of the Principal Sessions Court, Ramanathapuram, dismissing the petition filed under Sections 73 and 45 of the Indian Evidence Act.

2. The petitioner is the accused in S.C.No.70 of 2019 for the offence under Section 302 I.P.C. When the Sessions Case was pending for defence evidence, the accused has filed the above petition under Sections 73 and 45 of the Indian Evidence Act seeking orders to send the disputed writings in the confession statement and seizure mahazar along with the admitted writings of the Investigating Officer (P.W.14) Thiru.Senthilkumar to the Handwriting Expert for comparison and report.



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3. The case of the prosecution is that during investigation, the Investigating Officer has recorded the voluntary confession statement given by the petitioner / accused and on the basis of the confession, the properties namely two wheeler, blood stained Aruval came to be recovered through seizure mahazar. It is not in dispute that the admitted portion of the confession statement has been marked as Ex.P.5 and the seizure mahazar as Ex.P.6.

4. The case of the petitioner is that when the Investigating Officer – P.W. 14 was in witness box, he would depose that he had written the confession statement and the seizure mahazar, that he would also admit that the ink used for writing the confession statement and the seizure mahazar appears to be different and that he has no objection to send the above writings to the Handwriting Expert for getting the report, that the confession witness – P.W.6 in his cross-examination would say that the confession was written by the police and not by the Inspector of Police, that the prosecution has failed to prove that the Investigating Officer – P.W.14 alone has written the confession statement and the seizure mahazar and that therefore, it has become just and necessary to send the confession statement and the seizure mahazar along with the admitted writings of the Investigating Officer for comparison and to get expert opinion.



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5. The respondent police has raised serious objections stating that the above petition came to be filed only to drag on the proceedings. The learned Principal Sessions Judge, after enquiry, has passed the impugned order dated 03.06.2024 dismissing the said petition. Challenging the dismissal order, the present revision petition came to be filed.

6. The learned Counsel for the petitioner would submit that if the expert gives opinion that the handwriting and the signatures found in the confession statement and in seizure mahazar are different from the admitted writings and the signatures of the Investigating Officer, then the entire prosecution case of recovery of weapon used in the occurrence gets falsified and the defence version will get strengthen and that therefore, it is very much necessary to send the disputed documents for comparison and report.

7. It is the specific case of the prosecution that the petitioner/accused has given voluntary confession before P.W.14 – Investigating Officer and in pursuance of the said confession statement, the property came to be recovered under seizure mahazar.



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8. The petitioner has mainly relied on the evidence given by P.W.14 to the effect that P.W.14 himself had admitted that he had written the confession statement and seizure mahazar using different inks, that the confession witness – P.W.6 has given evidence that the said documents were written by the police and not by the Inspector of Police. Whether the accused has given a voluntary confession statement and whether the property namely two wheeler and the blood stained Aruval came to be recovered in pursuance of the confession statement given by the accused are the main aspects to be proved by the prosecution in order to establish the factum of recovery.

9. Whether the Inspector of Police himself has written the documents or whether any other police personnel at the instructions of the Inspector of Police has written the documents is immaterial. As rightly contended by the learned Government Advocate (Crl.Side), there is no legal mandate that the Investigating Officer before whom the confession statement is made by an accused, has to record the confession by himself. In the case on hand, the Investigating Officer has specifically admitted his signatures found in the documents. Though P.W.14 has given evidence that he had alone written the documents, even assuming for



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arguments sake that same were written by some other police, that by itself will not vitiate the case of the prosecution.

10. Even assuming for arguments sake that the expert opinion is received from the Handwriting Expert giving their opinion that both the writings and signatures are different, even then, that by itself does not advance the case of the petitioner.

11. At this juncture, it is necessary to refer the decision of the Hon'ble Supreme Court in the case of ***Chennadi Jalapathi Reddy Vs. Baddam Pradhapa Reddy (dead) and another*** reported in ***(2019) 14 SCC 220***, wherein the Hon'ble Apex Court has observed as follows:

“7. As mentioned supra, the High Court mainly relied upon the opinion evidence of DW-2, the handwriting expert, who opined that the signature of the first defendant on the agreement of sale Ext. A-1 did not tally with his admitted signatures.

8. By now, it is well-settled that the Court must be cautious while evaluating expert evidence, which is a weak type of evidence and not substantive in nature. It is also settled that it may not be safe to solely rely upon such evidence, and the Court may seek independent



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and reliable corroboration in the facts of a given case. Generally, mere expert evidence as to a fact is not regarded as conclusive proof of it. In this respect, reference may be made to a long line of precedents that includes Ram Chandra and Ram Bharosey V.State of Uttar Pradesh, AIR 1957 SC 381, Shashi Kumar Banerjee V. Subodh Kumar Banerjee, AIR 1964 SC 529, Magan Bihari Lal Vs. State of Punjab, (1977) 2 SCC 210, and S.Gopal Reddy Vs. State of Andhra Pradesh, (1996) 4 SCC 596.”

12. The Hon'ble Supreme Court in the case of ***Shashi Kumar Banerjee and others Vs. Subodh Kumar Banerjee since deceased and after him his L.Rs and others*** reported in ***AIR 1964 SC 529*** has held that the evidence of a Handwriting Expert should rarely be given precedence over the substantive evidence.

13. As already pointed out, it is pertinent to note that the Sessions Case is now pending for defence evidence. Considering the facts and circumstances and the nature of the petition filed, this Court has no hesitation to hold that the above petition came to be filed only to drag on the proceedings. Hence, the impugned order of the learned Principal Sessions Judge, dismissing the petition filed under Sections 73 and 45 of the Indian Evidence Act cannot be found fault with.



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

14. In the result, the Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. The learned Principal Sessions Judge, Ramanathapuram is directed to complete the trial and dispose of the case in S.C.No.70 of 2019 within a period of two months from the date of receipt of a copy of this order.

29.11.2024

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

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To

1. The Principal Sessions Court, Ramanathapuram.
2. The Inspector of Police,
Kenikkarai Police Station,
Ramanathapuram.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in

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