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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.4.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Petition No. 91 of 2014

T.Goraknathan

...Petitioner/Complainant

Versus

T.Gopinathan

...Respondent/Accused

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. against the final order dated 08.10.2013 in the application of the complainant under Section 45 read with 73 of the Evidence Act, by the Judicial Magistrate, Katpadi in CrI.M.P. No.2867 of 2013

For Petitioner : Mr. V.Kannan

ORDER

The petitioner has come forward with this Criminal Revision Petition against the order dated 08.10.2013 made in CrI.M.P.No. 2867 of 2013 on the file of the Judicial Magistrate, Katpadi, in and by which the request made by the petitioner under Section 45 read with 75 of Evidence Act to send the documents to the Central Forensic Laboratory to obtain further expert opinion was rejected.

2. The petitioner is the complainant in C.C. No. 152 of 2011. The petitioner has filed C.C.No.152 of 2011 against the respondent accused alleging that the accused is said to have committed the offence under Section 468, 469, 471 and 420 IPC. Pending C.C.No.152 of 2011, the petitioner has filed a petition under Section 45 of the Evidence Act in CMP.No.3932 of 2011 to compare the signature of the accused and genuinity of the document and the same was allowed on 09.3.2012. Thereafter, the disputed document was sent to the Forensic Science Department, Chennai and obtained report dated 14.2.2013. Since the petitioner is not satisfied with the report, he has filed another petition requesting to send the same documents to the Central Forensic Laboratory Amberpet Port, Ramanathapur, Hyderabad to obtain further expert opinion.



3. The Court below dismissed the C.M.P. No. 2867 of 2013 holding that as per the report of the Forensic Science Department, dated 14.2.2013, there is no possibility to offer any reliable opinion on the disputed signature and the document and, therefore, the purpose of sending the same documents for further opinion will not be served. Against which, the petitioner has come forward with this Revision.

4. I heard the learned counsel for the petitioner and perused the records.

5. According to the petitioner, in the earlier petition, the previous counsel has not pressed into service the provisions under Section 73 of the Evidence Act and also Section 311-A of the Criminal Procedure Code. According to the petitioner, in the earlier petition, only his signature was sent to the Expert for comparison and verification, without sending the adequate relevant supporting documents available with him. Therefore, by way of change of Counsel, the present petition was filed. According to the petitioner, since he is not aware of the said documents, earlier, steps were not taken to send the same along with his signature. Therefore, he sought for a direction to send the said documents to the Central Forensic Laboratory to compare the signature with the alleged documents in the Court but, without considering the same, it was rejected by the Court below.

6. It is the case of the respondent before the Court below that the request sought for by the petitioner has already been accepted and that the disputed document was sent to the Forensic Science Department and report has also been obtained on 14.2.2013. However, again the petitioner has filed the present petition to send the same documents to the Central Forensic Laboratory Amberpet Port, Ramanathapur, Hyderabad to obtain further expert opinion, which is not feasible as the Expert has stated that there is no possibility to offer any reliable opinion on the disputed signature and the document.

7. On a careful reading of the petition, it is very clear that the petitioner was not in a position to state that what kind of relief he wanted. In paragraph 4, he would state that the petitioner wants the Court to direct any handwriting expert of the Central Forensic Science Laboratory, Amberpet Post, Ramanathapur, Hyderabad to examine the affixed 25 signatures of the petitioner and the accused along with the forged signatures in the documents filed in Court. But in the report dated 14.2.2013 of the Forensic Science Department, it is very clearly stated that there is no possibility to offer any reliable opinion on the disputed signature and the document. Therefore, the Court below has rightly rejected the petitioner's request.



8. As rightly pointed out by the Court below, there is a total misconsumption on the part of the petitioner and he misunderstood the exact version in the expert opinion that they were not capable of giving reliable opinion. In the report, there is no such statement. In the report, it has been clearly stated that there is no possibility to offer any reliable opinion on the disputed signature and the document. Further, the petitioner has not stated that what are all the documents to be compared with.

9. Admittedly, the Forensic Science Department, Chennai is a competent body which has rendered its opinion to the effect there is no possibility to offer any reliable opinion on the disputed signature and the document. The petitioner has not disputed the competency or otherwise of the Forensic Science Department, Chennai. When once such a competent authority has arrived at a conclusion at the instance of the petitioner, there is no scope for referring the documents again to Central Forensic Laboratory.

10. The Court below also found that the report of the Forensic Science Department dated 14.2.2013, reveals that the scientific experts examined the disputed documents and concluded that it is not possible to offer any reliable opinion on the signature compared with the disputed documents. Therefore, reasoning assigned by the court below is valid and justified. Further, even though no stay was granted in this Civil Revision Petition, the petitioner has been dragging on the proceedings by filing memo before the Court below stating that the Civil Revision Petition is pending before this Court.

11. In view of the above facts, there is no need to interfere with the order passed by the trial Court. The Criminal Revision Petition is therefore dismissed. The Court below is directed to proceed with the case giving all opportunities to the petitioner to cross examine the witnesses.

Sd/-
Assistant Registrar(R)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate,
Katpadi.

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Crl RC No. 91 of 2014

CTK (CO)

PSI (30.04.2015)