

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Crl.R.C.Nos.1415 to 1417 of 2012

And

M.P.Nos.1 to 1 of 2012(3Nos)

Harigovindan ... Petitioner in Crl.R.C.1415 of 2012

1.Hema
2.Alamelu
3.Vijayalakshimi ... Petitioners in Crl.R.C.1416 of 2012

1.Natchiappan
2.Kannan
3.Mani
4.Rajendran ... Petitioners in Crl.R.C.1417 of 2012

Vs.

State represented by its Deputy Superintendent of Police,
District Crime Branch,
Villupuram District
(Cr.No.4 of 2008) ... Respondent in all Crl.R.Cs.

S.Kannan Sennappa Naicker
N.Aravindan

(R2 and R3 impleaded as per the
order of this Court made in
M.P.No.1 of 2015 in
Crl.R.C.1415/12
order dated 23.4.15 by BRJ)

... Respondents in Crl.R.C.1415 of 2012
2 and 3

Prayer in Crl.R.C.1415 of 2012:

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code praying to set aside the order in Crl.M.P.No.6581 of 2009 dated 24.03.2010 in C.C.No.308/08 on the file of the Judicial Magistrate, Kallakurichi passed by the Learned Judicial Magistrate, Kallakurichi and discharge the petitioner from this case.

Prayer in Crl.R.C.1416 of 2012:

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code praying to set aside the order dated 24.03.2010 in Crl.M.P.No.6583 of 2009 in C.C.No.308/08 on the file of the Judicial Magistrate, Kallakurichi and discharge the petitioners from this case.

Prayer in Crl.R.C.1417 of 2012:

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code praying to set aside the order dated 24.03.2010 in Crl.M.P.No.6582 of 2009 in C.C.No.308/08 on the file of the Judicial Magistrate, Kallakurichi and discharge the petitioners from this case.

For Petitioners : Mr.N.Subramani

For Respondents : Mr.V.Arul for R1
Government Advocate (Crl. Side)
Mr.M.C.Govindan for R2 and R3

C O M M O N O R D E R

The petitioners are arrayed as A1, A2, A3, A4, A7, A8, A9 and A10 respectively and A1 to A4 are alleged to have created a forged document and A7 to A10 are alleged to have witnessed it knowing that the document is a forged one.

2.Petitioner in Crl.R.C.1415 of 2012 was charged for the offence under Sections 419, 420, 467, 468, 471 r/w 120(b) and 34 of IPC. Petitioners in Crl.R.C.1416 of 2012 were charged for the offence under Sections 419, 420, 467, 468, 471 r/w 120(b) and 34 of IPC. Petitioners in Crl.R.C.1417 of 2012 were charged for the offence under Sections 419, 420, 467, 468, 471 r/w 120(b) and 34 of IPC.

3.The petitioners have filed Crl.M.P.Nos.6581 of 2009, 6583 of 2009 and 6582 of 2009 respectively, in C.C.No.308 of 2008 on the file of the learned Judicial Magistrate, Kallakurichi seeking to discharge them from the charges and the same were dismissed by the learned Judicial Magistrate, Kallakurichi.

4.The learned counsel for the petitioners vehemently argued that all the three revision cases have to be allowed together. The main ground of attack by the learned counsel for the petitioners is that the lower court in a discharge application has not given any reasoning at all in respect of the various grounds raised in the discharge application and mere pointing out that the prosecution case

is that it is a forged document and therefore prima facie case is made out is not correct. The learned counsel pleaded that the lower court should have considered the difference which has been raised in the grounds and answered that point and nothing as such has been done. Similarly, in the second case, the lower court has only passed an order that prima facie case has been made out. It is not even stated what is the case made out. In the third case, it is only mentioned that they attested the forged document and no other details have been mentioned in the order.

5.The learned Government Advocate also heard the third party alleged to be the bonafide purchaser and would only contend that if the matter is remanded back, it will take lot of time. He only seeks early disposal of the case.

6.Reasoning is the foundation stone of every judgment. In this context, useful reference can be made to the decision of the Hon'ble Supreme Court in the case of Steel Authority of India Vs. Sales Tax Officer, Rourkhela (2008) 16 VST 181 (SC) wherein the Hon'ble Supreme Court held that reasons are the heart beat of every conclusion. It is further held that an order without reasons or failure to give reasons amounts to denial of justice. "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.". Applying the above decision to the facts of the present case, the order passed by the Court below is per se not sustainable.

7.In view of the above, since the orders have been passed without any reasoning, the orders made in Crl.M.P.Nos.6581 of 2009, 6583 of 2009 and 6582 of 2009 respectively, dated 24.03.2010 in C.C.No.308 of 2008 by the learned Judicial Magistrate, Kallakurichi is set aside and the matter is remanded back to the learned Judicial Magistrate, Kallakurichi and the learned Judicial Magistrate, Kallakurichi shall afford opportunity of hearing to all the parties and thereafter pass reasoned orders within a period of three months from the date of receipt of a copy of this order.

8. These revisions are accordingly disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS V)

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Sub Asst. Registrar

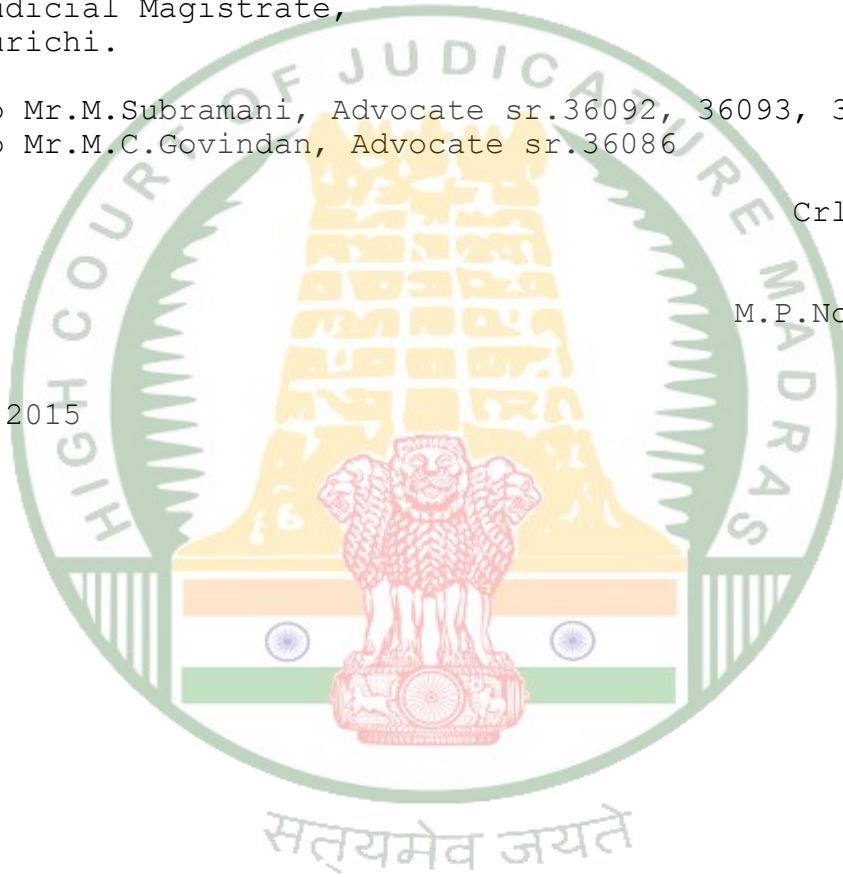
To

1. The Judicial Magistrate,
Kallakurichi.

+3cc to Mr.M.Subramani, Advocate sr.36092, 36093, 36094
+3cc to Mr.M.C.Govindan, Advocate sr.36086

Crl.R.C.Nos.1415 to
1417 of 2012
And
M.P.Nos.1 to 1 of 2012

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