

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**CRIMINAL PETITION No. 10545 of 2014**

**ORDER:**

The petitioner, who is accused No.1, filed the present Criminal petition under Section 482 Cr.P.C. seeking quashing of the proceedings in C.C.No.2113 of 2014 on the file of the XI Additional Chief Metropolitan Magistrate, Secunderabad. A charge sheet came to be filed against the petitioner and four others for the offences punishable under Sections 120-B, 468, 469, 471 and 484 IPC.

The allegations in the charge sheet are as under:

On 17.03.2008 the Sub-Inspector of Police, Ramgopalpet Police Station, received a report from K.R.Nandan, Director General, SPF, Andhra Pradesh, Secunderabad, the contents of which are as under:

The Government (Home Department) vide memo No. 144497/Ser.VII/A1/2006-1, dated 30.05.2006 received a petition from S.Ranga Raju, M.L.A. along with four other M.L.A.s making serious allegations against senior officers of Special Protection Force. While the allegation made therein were enquired into, S.Ranga Raju, M.L.A., Visakhapatnam, addressed a letter to the D.G.P. stating that his signature was forged by some persons and he never signed any petition addressed to Chief Minister. It is stated that even on earlier occasion, his signature was forged and a criminal case was registered against some miscreants. Basing on the said letter, the Government wrote letters to five M.L.A.s, to confirm whether they have signed on the alleged petition addressed to the Chief Minister or not. In reply to the same, two M.L.A.s, 1) Srinivasa Rao, MLA, Visakhapatnam-I and (2) K.Ravi Babu, MLA, Srugawarapukota, replied stating that their signatures are also false and forged. A careful perusal of the documents show that similar hand writings were found in the SPF Office. It is stated that the word "Camp-Hyderabad" in Annexure-I is matching with the writings of G.Nagabushanam,

retired Office Superintendent and the hand writing of “Copy to” DG, SPF, Red Hills, Hyderabad” is matching with the handwriting of one G.Gopala Krishna, another retired Office Superintendent, SPF. It is stated that some more staff of the SPF are involved in the forged petitions with a view to damage the image of the government officers concerned. Basing on these allegations a case in Crime No.70 of 2008 of Ramgopalpet Police Station was registered.

During the course of investigation, a “Photostat Copy”, the questioned document containing the handwritings and suspected forged signatures along with sample handwritings were forwarded to the Andhra Pradesh Forensic Science Laboratory, Hyderabad, along with the letter of advice, for comparison. LW.8 the handwriting expert, FSL, Hyderabad, conducted required examination of the documents and opined that accused No.1 wrote the words “Camp: Hyderabad” in his own handwriting in questioned document. Based on the evidence, an offence of forgery and forwarding forged representation to the Chief Minister is alleged against the petitioner. Their investigation also revealed that the signatures of five M.L.A.s were also forged. The police after arresting the accused laid a charge sheet.

Heard learned counsel for the petitioner and learned Public Prosecutor appearing for the respondent-State.

Learned counsel for the petitioner mainly submits that even accepting the allegations in the charge sheet to be true no offence is made out against the petitioner. According to him, comparison of admitted signatures with the writings on a Xerox copy is impermissible under law and comparison of such nature cannot be accepted.

Learned Public Prosecutor opposed the application contending that the original petition is required to be obtained from the office records of Hon’ble Chief Minister and all possible efforts are being made to collect the records in order to send it to F.S.L. Hyderabad along with sample hand writings of accused Nos.2 to 4 for

comparison with forged writings.

A perusal of the averments in the charge sheet would disclose that if the opinion of the hand writing expert is excluded from consideration, the only material available on record would be the confession of the accused made before the police, which is inadmissible in evidence. The question now is whether the evidence of handwriting expert, who compared the admitted writings with the writings on the Xerox copy of the document, can be made the basis for launching prosecution.

The issue as to whether an expert can give opinion basing on the Xerox copies of disputed document came up for consideration before this Court in ***Bheri Nageswara Rao v. Mavuri Veerabhadra Rao and others***, wherein this Court after considering the provisions of Evidence Act held as under:

“Section 45 of the Act enables the Court to obtain the opinion of an expert on various aspects, including the one relating to the comparison of disputed signatures. An expert would be in a position to render his opinion, only when the original of the document containing the disputed signature is forwarded to him. Further, there can be effective comparison and verification of the signatures, if only another document containing the undisputed signatures of the contemporary period are made available to the expert. In the instant case, respondents 1 to 3 filed Exs.B13 and B.15, which are, admittedly, the Xerox copies of general power of attorney, dated 21.12.1988 and Khararanama, dated 21.12.1988. It is rather incomprehensible that an expert would be able to undertake analysis of the imprint of a signature, on a Xerox copy.

The opinion of a hand writing expert involves the analysis of the slant, which a person uses in the matter of putting his signature, and in some cases, the point of time, at which it may have been subscribed. These analyses would become possible only vis-à-vis an original signature; and the signature mark on a Xerox copy of a document can never constitute the basis.”

From the judgment referred to above, it is clear that signature on a xerox copy of the document can never constitute the basis for comparison and opinion by an expert. This Court categorically held that Xerox copies of the document cannot be made basis for comparing the disputed signatures with the admitted signatures.

Therefore, the only material on which the prosecution relied upon for connecting the petitioner with the crime cannot be made the basis in view of the judgment referred to above. If the said document is excluded from consideration, the other material available is the confession of the accused before the police and statement of LWs.1 to 13, who were cited as witnesses in the charge sheet. LW.1 is the complainant, who only refers to the complaints received from S.Ranga Raju, M.L.A. and other M.L.A.s about forging their signatures. LWs.2 to 7 are the panch witnesses examined to speak to the confession of the accused Nos.1 to 5 before the police. LW.8 is handwriting expert while LWs.9 to 12 are official witnesses, who registered the First Information Report, arrested accused Nos.1 to 5 and filed the charge sheet. In the absence of any legal material connecting the petitioner with the crime, this Court is of the view that continuation of proceedings against the petitioner would be an abuse of process of law.

It is made clear that in view of the representation made that the original petition is sought to be obtained from the office of the Hon'ble Chief Minister, the prosecution is at liberty to initiate action as if the said original petition is obtained and sent to an expert along with admitted writing and the same was found to be tallying with the admitted signature.

Accordingly, the Criminal Petition is allowed and all the proceedings against the petitioner in C.C.No.2113 of 2014 on the file of the XI Additional Chief Metropolitan Magistrate, Secunderabad, are hereby quashed. Miscellaneous petitions, if any, shall stand closed.

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**C. PRAVEEN KUMAR, J**

01.04.2015

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