

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.2361 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. seeking a direction to the Additional Judicial First Class Magistrate, Gudivada, Krishna District to send for original Will dated 18-01-2011 which is lying in O.S.No.51 of 2012 on the file of Additional District Judge, Gudivada, by calling for the same from that Court, to the Government Handwriting Expert to compare the standard signatures of the executant with the disputed signatures; in relation to Crime No.257 of 2014 of Gudivada I Town Police Station, Krishna District.

Heard and perused the record.

In the pending Crime No.257 of 2014 of Gudivada I Town Police Station, the Assistant Public Prosecutor with the active connivance of the de facto complainant, filed a petition in CrI.M.P.No.3021 of 2015 under Section 91 Cr.P.C. before the Additional Judicial First Class Magistrate, Gudivada, seeking to send for original Will in O.S.No.51 of 2012 pending on the file of XI Additional District Judge, Gudivada to the said Court for sending the same to Handwriting Expert for comparison with disputed signatures. The learned Magistrate dismissed the said application, by an order dated 07-12-2015.

A bare perusal of the material on record makes it clear that the learned Magistrate has rightly dismissed the said application holding that since the genuiness of the Will was not yet decided and the same is under adjudication, question of sending the Will does not arise. It is also categorically stated that if the investigating officer wants the said document for investigation, he

was at liberty to get the document under Section 91 Cr.P.C., as if such officer requires the document. As rightly held by the learned Magistrate, the genuiness of the Will is under adjudication in O.S.No.51 of 2012 and is not yet decided, in which event, the question of sending of the said Will for comparison would not arise, as such a course of action is a premature one. The relief sought for in the present petition cannot be granted as the purpose for which the petition is filed is a premature one and hence, this Court is of the view that it is not a fit case where the relief as sought for can be granted invoking Section 482 Cr.P.C., and thus, the criminal petition is liable to be dismissed.

Accordingly, the Criminal Petition is dismissed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 24-02-2016

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