



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Cr1.R.C.(MD)No.244 of 2017
and
Cr1.M.P.(MD)No.2166 of 2017

Pounraj

... Petitioner/Respondent/Accused No.1

Vs.

1.State Rep.by

The Sub Inspector of Police,
CCB, Madurai City.

... 1st Respondent/Complainant

2.Alagarsamy

(R2 is impleaded as per order dated 28.11.2017
in Cr1.M.P.(MD)No.10755 of 2017)

... 2nd Respondents

PRAYER:The Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records of the proceedings of the learned Judicial Magistrate No.I, Madurai in Cr.M.P.No.503 of 2017 in C.C.No.180 of 2013 dated 20.02.2017 and set aside the same.

For Petitioner : Mr.P.Arun Jayatram

For Respondent : Mr.C.Mayilvahana Rajendran, APP for R1
Mr.R.Ramasamy for R2

O R D E R

This Criminal Revision case is filed to set aside the order dated 20.02.2017 in Cr.M.P.No.503 of 2017 in C.C.No.180 of 2013 passed by the learned Judicial Magistrate No.I, Madurai.

2.The learned counsel for the petitioner, Mr.C.Mayilvahana Rajendran, Additional Public Prosecutor, who took notice for R1 and the learned counsel for R2 are present and heard.



3.The case of the prosecution is that a deed in question is a forged one as the signature of the de facto complainant was forged by the petitioner.

4.The petitioner herein is arrayed as A1 in C.C.No.180 of 2013 on the file of the Judicial Magistrate No.I, Madurai. When the matter was taken up for trial, the prosecution has filed a petition in CrI.M.P.No.503 of 2017 seeking permission to receive a SR copy of the disputed deed received from Sub Registrar as the signature of the de facto complainant found in the said document was forged by the petitioner. The Trial Court after hearing both parties, has allowed the said petition, permitting the prosecution to mark the said document with the observation that the respondent may raise objections at the time of marking the document and the same would be recorded and considered at the time of passing judgment.

5.The learned counsel for the petitioner contended that the said document should be marked through the author of the same.

6.The learned counsel for the 2nd respondent relied on a decision of the Hon'ble Supreme Court in Bipin Shanthilal Panchal Vs. State of Gujarat and another in M.P.(CrI.)No.862 of 2001 in Special Leave Petition (CrI.) 223 of 2000 dated 22.02.2001, in which, the Hon'ble Apex Court has observed as under:

".....Whenever an objection is raised during evidence taking stage regarding the admissibility of any material or item or oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the judge or magistrate can keep such evidence excluded



from consideration. In our view there is no illegality in adopting such a course."

7. The learned Additional Public Prosecutor appearing for the 1st respondent would further submit that the original sale deed register maintained by the concerned Sub Registrar was sent for getting opinion from Expert in respect of the thumb impression made in the said document and to that effect a report was also received.

8. Considering the facts and circumstances of the case, this Court is not inclined to interfere with the order dated 20.02.2017 in Crl.M.P.No.503 of 2017 in C.C.No.180 of 2013 passed by the learned Judicial Magistrate No.I, Madurai. Hence, the Criminal Revision case is dismissed. Consequently, connected Crl.M.P.is closed. The Trial Court is directed to dispose the case expeditiously since the de facto complainant is a senior citizen aged about 75 years.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Madurai.

2. The Sub Inspector of Police,
Central Crime Branch (CCB),
Madurai City.

Crl.R.C. (MD) No.244 of 2017
19.12.2017

nbj
SDS/JC/SAR 4/09.01.2018/3P/3C