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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 09.07.2018

DELIVERED ON : 18.07.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD) No.371 of 2018

Rajammal ... Petitioner/Defacto Complainant

vs.

1.The State rep. by
The Inspector of Police,
Nalattinipudur Police Station,
Thoothukudi District. ... Respondent/Complainant
(Crime No.76 of 2017)

2.Ramamoorthy

3.Pushba raj

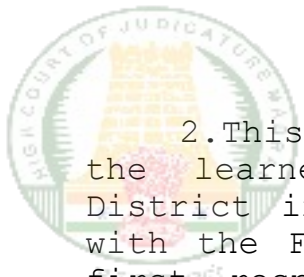
4.Meenraj ... Respondents/Respondents

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.I, Kovilpatti, Thoothukudi District in Cr.M.P.No.1421 of 2018 dated 20.04.2018 in connection with the FIR in Crime No.76 of 2017 pending on the file of the respondent and set aside the same and consequently direct the aforesaid learned Judicial Magistrate to take the petitioner's specimen signature and thump impression in his presence so as to send the same for comparison in connection with the said case.

For Petitioner : Mr.R.Anand
For 1st Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

Heard Mr.R.Anand, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the first respondent.



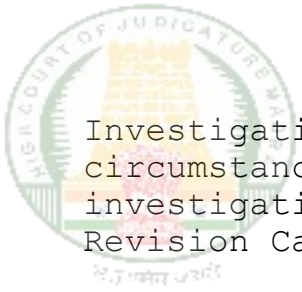
2.This petition has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Kovilpatti, Thoothukudi District in Cr.M.P.No.1421 of 2018 dated 20.04.2018 in connection with the FIR in Crime No.76 of 2017 pending on the file of the first respondent and consequently direct the aforesaid learned Judicial Magistrate to take the petitioner's specimen signature and thumb impression in his presence so as to send the same for comparison in connection with the said case.

3.The petitioner is the defacto complainant. She filed a complaint against the respondents 2 to 4 before the first respondent and the FIR was registered in Crime No.76 of 2017. The case against the respondents 2 to 4 is that they forged the signature of the petitioner and swindled the gratuity provident fund and they attempted to sell the property of the petitioner. The defacto complainant is having a serious suspicion that the Investigating Officer is colluded with the accused and he is likely to file a negative final report and the petitioner filed a petition under Section 311(A) of Cr.P.C., to take specimen signature and thumb impression of the petitioner in the presence of the learned Judicial Magistrate and to send the same for comparison.

4.On the side of the prosecution, it is stated that the petitioner is only under a presumption and there is no other reasonable cause for filing the petition. It is further stated that already specimen signature was taken and specimen signature and the disputed documents were already sent for expert opinion through the learned Judicial Magistrate. The order passed by the learned Judicial Magistrate is clear and that there is no necessity for the petitioner to file this petition at this stage.

5.On the side of the petitioner, it is stated that forgery is the main allegation and to prove forgery the specimen signature of the petitioner is to be compared with the disputed signatures. Since the expert opinion will form the basis of the case, the petitioner insisted upon his specimen signature to be taken in the open Court by the learned Judicial Magistrate.

6.Records perused. Section 311(A) of Cr.P.C., is not a mandatory provision. If the learned Judicial Magistrate has satisfied that the specimen signature is to be taken, he can summon the person concerned. In the order passed by the learned Judicial Magistrate, it is clearly stated that though the specimen signature was taken in the respondent Police Station, it was sent for expert opinion only through the Court. The investigation is still pending and the learned Judicial Magistrate has given liberty to the petitioner to file a similar petition if needed after the respondent Police filed a final report. Even though liberty is given to the petitioner, the petitioner has approached this Court before the completion of the investigation, only on the presumption that final report will be negative against him. Except the vague allegation of the petitioner, there is no materials to prove that the



Investigating Officer is colluding with the accused. In these circumstances, this Court deems it fit not to interfere with the investigation and there is no merit in the case. This Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(P&A)

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/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.I, Kovilpatti, Thoothukudi District.
- 2.The Inspector of Police,
Nalattinpudur Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. **(Two Copies)**

Crl.R.C.(MD) No.371 of 2018
18.07.2018

mrn

JM/SV/SAR 1/30.07.2018/3P/6C