



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2018

CORAM

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**THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN**

Crl.O.P. (MD) No.20548 of 2013  
and M.P. (MD) Nos.1 of 2013 & 1 of 2014  
and Crl.M.P. (MD) No.667 of 2017

1. Jeyakumar

2. J. Renuga

... Petitioners/ A-1 & A-2  
Vs.

1. State through

Deputy Superintendent of Police,  
Anti land Grabbing Special Cell,  
District Crime Branch,  
In Cr.No.37 of 2011,  
Virudhunagar District.

... 1<sup>st</sup> Respondent / Complainant

2. Chellapappa

... 2<sup>nd</sup> Respondent / Defacto Complainant

**Prayer**: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in impugned order in Cr.M.P.No.18 of 2013 dated 21.10.2013 on the file of the learned Special Judicial Magistrate (Land Grabbing cases) Virudhunagar and to quash the same.

|                 |                                 |
|-----------------|---------------------------------|
| For Petitioners | : Mr.Ravi                       |
| For R1          | : Mr.A.Robinson, G.A.(Crl.side) |
| For R2          | : Mr.S.Balamurugan              |

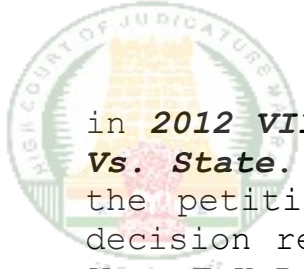
### **ORDER**

The petitioner has filed this Criminal Original Petition questioning the order dated 21.10.2013 passed by the learned Special Judicial Magistrate (Land Grabbing cases) Virudhunagar in Cr.M.P.No.18 of 2013. The said petition was filed by the Investigating Agency for obtaining specimen signature and thumb impression of the accused. The learned Magistrate had allowed the said application. The said order is challenged on the ground that the requirement set out in Section 311 (A) Cr.P.C. has not been fulfilled in this case.

2. Section 311 (A) Cr.P.C enables the Magistrate to order a person to give specimen signature or hand writing. This proviso shall be not made applicable unless a person has at some time been arrested in connection with such investigation or proceedings.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel appearing for the petitioners has relied upon the judgment of the Full Bench of the Delhi High Court reported



in **2012 VIII AD (Delhi) 533** in the case of **Sapan Haldar and another Vs. State**. It is true that the Full Bench decision is in favour of the petitioners. But then a Hon'ble Judge of this Court in the decision reported in **2015-1-L.W. (Cr1.) 663** in the case of **Murugesan Vs. T.K.Ramasamy** has declined to follow the above said Delhi decision. This Court also respectfully follows the said decision rendered in **2015-1-L.W. (Cr1.) 663**.

4.This Court is also of the view that the said proviso will have to be purposively understood. This is a case in which the allegation of forgery has been made. Therefore in the very nature of things, the specimen signature and thumb impression of the accused is necessary for obtaining expert opinion. In this case anticipatory bail was granted in favour of the petitioners. Therefore, this Court is of the view that the requirement set out in proviso 311(A) Cr.P.C. ought to be deemed to be satisfied where the accused have obtained anticipatory bail.

5.Therefore, for these reasons, the order passed by the learned Judicial Magistrate is sustained. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

**To**

1. The Special Judicial Magistrate (Land Grabbing cases), (2 copies) Virudhunagar.
2. The Deputy Superintendent of Police,  
Anti land Grabbing Special Cell,  
District Crime Branch,  
Virudhunagar District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to Mr.S.BALAMURUGAN, Advocate in SR.No.67933

GNS  
RJ/RSK/SAR-1/16/07/2018 - 2P/6C