

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.411 of 2017 and
Crl.M.P.No.3838 of 2017

S.K.Sathasivam

... Petitioner/Accused

Vs.

State rep by
The Inspector of Police,
District Crime Branch,
Erode.

(Crime No. 35/2012)

...Respondent/Complainant

PRAYER: The Criminal Revision has been filed, under Section 397 and 401 of Cr.P.C., seeking to call for the records and set aside the order dated 24.01.2017, made in C.M.P.No.3266 of 2016 in C.C.No.256 of 2014, by the Chief Judicial Magistrate, Erode.

For Petitioner : Mr.A.Thiyagarajan

For Respondent : Mr.M.Mohamed Riyaz, APP

O R D E R

The criminal revision has been filed by the petitioner/Accused, seeking to set aside the order dated 24.01.2017, made in Crl.M.P.No.3266 of 2016 in C.C.No.256 of 2014, by the Chief Judicial Magistrate, Erode, dismissing the petition to send the admitted signatures of the petitioner to compare along with the signatures found in ["புதிர் துணர்வ ஒப்பந்தப் பத்திரம்"] dated 21.02.2000, by department of Forensic Science, Hyderabad for final verification and to get an opinion from the Department of Forensic Science, Hyderabad.

2 This Court heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3 The brief facts of the case are that the petitioner is the 1st accused in the case. The respondent police had filed the charge sheet against the petitioner and two other accused under Section 120(b), 405, 406 and 420 of IPC. The petitioner and the 3rd accused had purchased 3.4½ Acres in R.S.No.591 at Erode Village on 18.09.2003 under a registered Document No.2090/2003.

After receipt of summon, the petitioner had entered appearance and after verification of charge sheet, he had found that the respondent had received one document ["புரிந்துணர்வு, ஒப்பந்தப் பத்திரம் "] dated 21.02.2000, from the informant and the same had been sent to the hand writing expert for verification and the report of the Forensic Expert has been received from the office of the Director of Department of Forensic Science, Chennai. On perusal of the report, the petitioner had found that the expert had given a report stating that the admitted signatures of the petitioner tallied with the signatures in the Memorandum of understanding in ["புரிந்துணர்வு, ஒப்பந்தப் பத்திரம் "] dated 21.02.2000. The petitioner disputing the report and being not satisfied with the report had filed a petition seeking to send the admitted signatures to compare along with the signatures found in the Memorandum of understanding in ["புரிந்துணர்வு, ஒப்பந்தப் பத்திரம் "] dated 21.02.2000, by the Department of Forensic Science, Hyderabad.

4 The respondent had filed a counter, stating that the petition is not maintainable either in law or facts and that since the expert opinion had been obtained from the Government Forensic Department, it is unnecessary to send it to another Department belonging to another state and that the petition had been filed to drag the case. The Trial Judge, finding that no valid reason or objection has been raised by the petitioner seeking to send the document once again to the Department of Forensic Science, Hyderabad for verification and finding that there is no need or necessity, had dismissed the petition, against which, the present criminal revision has been filed.

5 The learned counsel for the petitioner would submit that on perusal of the documents, he had disputed the signatures found in the Memorandum of understanding ["புரிந்துணர்வு, ஒப்பந்தப் பத்திரம் "], dated 21.02.2000 and thereby, had filed a petition seeking to send the documents for the second expert opinion.

6 The learned Additional Public Prosecutor would submit that expert opinion has been given by the Government Expert and that the expert has also been cited as a witness and if the petitioner doubts the veracity of the report given by the Expert of the Government Department, he is entitled to cross examine the witnesses to find out about the veracity of his claim.

7 Per Contra, the learned counsel for the petitioner would submit that as per Section 273 of Cr.P.C., there is a possibility of the prosecution marking document without examining the expert and in such circumstances, the petitioner will lose the benefit of cross examining him with regard to the veracity of the expert opinion.

8 At this juncture, the learned Additional Public Prosecutor, would submit that the expert Tmt.C.Florence Devasudamani, has been cited as a witness and the prosecution will examine the expert with regard to the Report and mart it through her and in the event if the expert is not examined, the petitioner can summon and examine her.

9 In view of the above, the criminal revision is disposed of with a direction that in the event of the prosecution not examining the expert, the petitioner is entitled to summon the expert and examine her with regard to the veracity of the report. Consequently, connected miscellaneous petition is also closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To:

- 1.The Chief Judicial Magistrate, Erode.
- 2.The Inspector of Police, District Crime Branch, Erode.
- 3.The Public Prosecutor, High Court, Madras.

+1 CC to Mr.A.Thiyagarajan, Advocate sr 87581.

Cr1.R.C.No.411 of 2017

PM(CO)
SP(03/12/2019)

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