



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P.[MD]No.4041 of 2019
and
Crl.M.P. (MD)No.2417 of 2019

A.G.Gopal

: Petitioner

/Vs./

State rep by
The Inspector of Police,
Vikkiramangalam Police Station,
Madurai District.
Crime No.142 of 2013

: Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in S.C.No.588 of 2016 pending on the file of the learned 1st Additional District Judge, at Madurai and direct the respondent police to further investigate or re-investigate the case and file additional charge sheet after ascertaining the alleged connection of the petitioner with the KSN & Co more particularly by subjecting the petitioner's thumb impression and signatures with the documents forming part of the final report in the above case to forensic examination.

For Petitioner	: Mr.B.Mohan for A.Balamurugan
For Respondent	: Mr.V.Neelakandan Additional Public Prosecutor

ORDER

The present petition has been filed to quash the proceedings in S.C.No.588 of 2016 pending on the file of the learned 1st Additional District Judge, at Madurai and to direct the respondent police to further investigate or re-investigate the case and file additional charge sheet.

2. Heard the learned Additional Public Prosecutor appearing for the respondent.

3. The learned counsel for the petitioner submitted that the petitioner has been wrongly roped in the case in Crime No.142 of 2013, which is now pending in S.C.No.588 of 2016 on the file of the



learned 1st Additional District Judge, at Madurai. He further submitted that the entire prosecution case revolves around mining lease to the present petitioner, who is arrayed as A2. None of the papers concerning the second accused is there referring to the second accused. He also added that during the course of investigation, the police have not obtained any statement from the petitioner. He also fairly submitted that there are his signature and finger print was purported to be his, and he impugns both. He submitted that he has preferred a petition before the trial Court for comparing his signature by forensic expert and the same is pending. It is in these circumstances, he has come forward with the present petition.

4. The learned counsel appearing for the petitioner added that if he can have the charge sheet quashed against him, or can move for discharging him from the case, he has to produce some materials of stellar quality, and this evidence of such quality will be forth coming only if the expert decides the issue on the impugned signature and thumb impression.

5. There is some *prima facie* merit in the statements of the learned counsel for the petitioner. In one sense it may be stated that the petitioner has come forward to disclose his defence in the trial, in that he challenges the signature or thumb impression stated to have been affixed by him in some documents based on which the prosecution has levelled accusation against him. If the case goes for trial, at some stage before the closure of trial, the point raised has to be addressed and the petitioner as an accused necessarily will have the right to establish what he now contends.

6. The only issue is whether the petition filed by the petitioner before the District Court for having an expert opinion on his impugned signature is about the timing of the petition. In other words whether the petition should be filed now or later when he gets an opportunity to advance evidence for the defence. However, there is one point the petitioner has raised, which this Court does not consider it appropriate. According to him if the evidence of stellar quality is there, then notwithstanding the fact that whether the expert opinion is just or not, at least it leaves open further possibility to contemplate a decision on further investigation.

7. It is in this background, this Court now modifies the prayer sought for by the petitioner and directs the learned District Judge to dispose of CrI.M.P.No.335 of 2018 which was filed seeking an expert's opinion on his signature and thumb impression in certain documents within a period of one week from the date of receipt of a copy of this order. The petitioner may wait to workout his further remedy thereafter.



8. This Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Inspector of Police,
Vikkiramangalam Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.BALAMURUGAN, Advocate, SR.No.62520.

Cr1.O.P. [MD]No.4041 of 2019
25.04.2019

CS: (12/06/2019) 3P 4C