

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.57 of 2020
and
Crl.MP.No.299 of 2020

A.Manivannan ... Petitioner

Versus

State represented by
Inspector of Police,
Vigilance and Anti-Corruption,
Villupuram District ... Respondent

PRAYER: Criminal Original Petition is filed under Section 397 of the Code of Criminal Procedure, to call for the records and set aside the order dated 16.12.2019 on the file of the Special Court for Prevention of Corruption Act Cases-Villupuram, in C.MP.No.278 of 2019 in Spl.Case No.46 of 2014, dismissing the petition for comparing the signature and expert opinion from the forensic department u/s 243 of Cr.P.C. against this Petitioner / Accused and grant such other or further relieves in the nature of the case.

For Petitioner : Mr.V.Arunagiri

For Respondent : Mrs.V Saradha Devi
Government Advocate (crl.side)

सत्यमेव जयते
ORDER

This Criminal Original Petition is filed by the petitioner to call for the records and set aside the order dated 16.12.2019 on the file of the Special Court for Prevention of Corruption Act Cases-Villupuram, in C.MP.No.278 of 2019 in Spl.Case No.46 of 2014, dismissing the petition for comparing the signature and expert opinion from the Forensic Department u/s 243 of Cr.P.C. against this Petitioner /Accused and grant such other or further relieves in the nature of the case.

2.The case of the petitioner is that the petitioner is an accused in trapping case. The case is pending right from year

2014 onwards. In the year 2019, the petitioner filed a petition under section 243 of Cr.P.C, seeking to send the Ex.P2, Ex.P3, Ex.P11 and Ex.P.13 documents marked during the chief and cross examination of the PW.4. Thiru. Paramasivam/ defacto complainant in which the signatures of the applicant Paramasivam are found, in order to compare among them and to avail expert opinion from the Forensic Department. The said petition was dismissed, assailing the order of the trial Court, the present petition is filed.

3. The learned counsel for the petitioner would submit that Ex.P2, Ex.P3, Ex.P11 nad Ex.P.13 documents are signed by the Paramasivam/PW.4 and in the deposition of chief and cross examination also signed by the Paramasivam. In order to ascertain the signature of the exhibits and the chief and cross examination, the petitioner filed a petition before the trial court and on the ground that the said Ex.P2, Ex.P3, Ex.P11 and Ex.P.13 were signed by his son, in order to implicate the petitioner as an accused in a trapping case, the defacto complainant's son not implicated the petitioner, but his signature, therefore, it is very much required for expert opinion for comparison of the signatures in the above said documents.

4.Mrs. V.Saradha Devi, learned Government Advocate appearing for the respondent would submit that the author of the signature of the said documents namely PW.4, admit his signature which the accused disputed PW4 signature in the case is unsubstantiable one when the author of the documents deposed before the court below, hence there is no need for sending the said documents to the expert for comparison of the signature and further the case was filed in the year 2014 and after 5 years, the present petition is filed specifically to drag the proceedings and the petitioner is an accused.

5.Considering the facts and circumstance of the case, the petitioner filed the present petition under section 243 of Cr.P.C, however, Section 243 of Cr.P.C is not applicable to the present case, on hand. In the present case it is necessary to file the petition under section 73 of the Indian Evidence Act. On perusal of the provision of the Section 73 of the Indian Evidence Act. In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.

6. In the present case, admittedly, petitioner is not the author of the signature. However, he filed the petition to compare the signature. Further, the said document was signed by the father of the defacto complainant namely PW.4. When P.W.4 himself admitted that he signed the said document, filing petition for comparison of signature is un-sustainable one and the lower Court rightly rejected the request made by the petitioner for sending the document for Expert opinion and the petition itself is misconceived.

7. Hence in view of the above, I am not inclined to interfere with the order passed by the trial Court and the order dated 16.12.2019 in C.MP.No.278 of 2019 in Spl.Case No.46 of 2014, is confirmed. Accordingly, this Criminal Revision is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Special Judge,
Special Court for P.C.Act Cases,
Villupuram.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Villupuram District

3.The Public Prosecutor,
Madras High Court, Madras.

+1cc to Mr.K.Ashok Kumar, Advocate Sr.2789

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srg 21/02/2020