

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.03.2020
CORAM
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No. 33084 of 2019

Frederick Duraisamy

... Petitioner

-Vs-

Sharmila Moses

... Respondent

Prayer: Criminal Original petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the II Metropolitan Magistrate, Egmore, Chennai made in M.P. No. 2132 of 2018 in C.C. No. 13205 of 2014 dated 06.09.2019 and direct to send the diary dated 01.11.2005 along with the forensic evidence.

For Petitioner : Ms. Lita Srinivasan

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed by the Petitioner challenging the order passed in M.P. No. 2132 of 2018 in C.C. No. 13205 of 2014 dated 06.09.2019 on the file of the II Metropolitan Magistrate, Egmore, Chennai. The Petitioner is the complainant. He has filed a petition under Section 91 of Cr.P.C to call for the Diary dated 01.11.2005 for the purpose of sending it to the Forensic Laboratory to compare the signatures found in the said documents with the admitted signature of the complainant.

2. The Respondent/Defacto Complainant in C.C. No. 8436 of 2017 has submitted the diary extract dated 01.11.2005 stating that the Petitioner herein has acknowledged receipt of a money with signature. Now, the Petitioner is disputed the said signature and wanted to compare the signature found in the diary extract with admitted signature.

3. The Respondent produced the extract of the case diary in C.C. No. 8436 of 2017 which has been taken cognizance for the offence under Sections 406 & 420 of IPC before the learned II Metropolitan Magistrate, Egmore, Chennai. The Petitioner also lodged a private complaint for the very same offence under Sections 406 & 420 of IPC as against the Respondent.

4. Therefore, to conclude the trial, the said document is very necessary and as such, the learned trial Court ought to have allowed the application and send it for signature verification before the forensic laboratory, that apart, the petition filed by the Petitioner is not only the proof of document under Section 91 of Cr.P.C., but he has also sought for hand writing expert opinion to verify the signature.

5. Considering the facts and circumstances of the case, the order passed by the II Metropolitan Magistrate, Egmore, Chennai, dated 06.09.2019 made in M.P. No. 2132 of 2018 in C.C. No. 13205 of 2014, is hereby set aside.

6. With the above observations, this Criminal Original Petition is allowed.

7. Though notice served to the Respondent and name printed in the cause list, no one appear on behalf of the Respondent by person or through counsel.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

arb/drl

To

1. The II Metropolitan Magistrate,
Egmore, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.Lita Srinivasan Advocate sr21279

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