

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.02.2021

Coram :

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.56 of 2021 and  
Crl.M.P.No.996 of 2021

Dr.N.Vijayan

.. Petitioner/Accused -3

Versus

State represented by  
Inspector of Police,  
St.Thomas Mount Traffic Wing,  
Chennai.  
(Crime No.929/2012)

.. Respondent/Complainant

Criminal revision Petition is filed under Sections 397 r/w 401 of the Cr.P.C., to set aside the order of the learned Additional Sessions Judge, Chengalpattu in Crl.M.P.No.1345 of 2020 in S.C.No.187 of 2014 dated 18.12.2020 in connection with the petition filed U/s.311 Cr.P.C. r/w Section 45 of the Indian Evidence Act to send the disputed document Ex.P.10 (R.C.book of Vehicle TN 23 S 9952) and Ex.D4 (admitted document R.C. book of vehicle TN 11A 8488) to the handwriting expert (forensic department) to compare the signatures of the registered owners found in the R.C.Books and to submit the report.

For Petitioner : Mr.V.Karthik  
Senior counsel  
for Mr.N.Damodaran

For Respondent : Mr.K.Madhan  
Government Advocate (crl.side)

O R D E R

This Criminal Revision case has been filed against the order of the learned Additional Sessions Judge, Chengalpattu in Crl.M.P.No.1345 of 2020 in S.C.No.187 of 2014 dated 18.12.2020 in connection with the petition filed under U/s.311 Cr.P.C. r/w Section 45 of the Indian Evidence Act to send the disputed document Ex.P.10 (R.C.book of Vehicle TN 23 S 9952) and Ex.D4 (admitted document R.C. book of vehicle TN 11A 8488) to the handwriting expert (forensic department) to compare the signatures of the registered owners found in the R.C.Books and

to submit the report.

2.The respondent police registered a case against the petitioner and seven others in Crime No.929 of 2012 under Sections 279 and 304 (ii) IPC and Sections 182-A and 190 of the Motor Vehicles Act, 1988, wherein the petitioner has been shown as A3. After completing the investigation the respondent police laid charge sheet before the learned Additional District and Sessions Judge, Chengalpattu and the same is taken on file in S.C.No.187 of 2014. At the time of arguments, the petitioner filed a petition under Section 311 of Cr.P.C. r/w. Section 45 of the Indian Evidence Act for sending Ex.P10 and Ex.D4 to get handwriting expert opinion and the same was dismissed on 18.12.2020, on the ground that the petitioner has not approached the Court in earlier stage and only to protract the case, he has filed the case in the argument stage. Challenging the same the petitioner is before this Court by way of the present revision.

2. The learned Senior counsel appearing for the petitioner would submit that Ex.P10 is a forged one and Ex.D4 was filed by him during the examination of the witnesses. He would further submit that Ex.D4 contains the school seal and also the signature of the authorised signatory, whereas E.P10 does not contain the actual seal of the school and signature of the authorised signatory of the school and therefore both have to be sent for comparison to get handwriting expert's opinion, but the learned Additional District and Sessions Judge, failed to appreciate the evidence and dismissed the same by quoting the earlier order passed by this Court in Criminal O.P.No.6481 of 2018 filed for quashing the proceeding and therefore to get the substantial justice, to give one more opportunity to the petitioner, in order to prove his innocence that Ex.P10 is not genuine document and forged one and Ex.D4 is original, both the documents have to be sent for comparison to get expert opinion. He would further submit that even otherwise, the learned Judge should have compared with naked eye by invoking Section 73 of the Evidence Act, but the learned Additional District and Sessions Judge failed to exercise his jurisdiction and dismissed the petition and therefore, the order passed by the learned Additional District and Sessions Judge is perverse and the same warrants interference.

3. The learned Government Advocate (Crl.side) would submit that even the prosecution collected document Ex.P10 during the investigation and annexed with the final report filed under Section 173 (ii) of Cr.P.C. Even after committal copy of the same was furnished to him under Section 207 of Cr.P.C. He would further submit that Ex.P10 came to the knowledge of the petitioner even in the year of 2014 itself and if at all the documents under Ex.P10 is not a genuine document and forged one,

he could have taken the steps in the earlier possible time. He would further submit that even the petitioner had moved this Court challenging the charge sheet, but failed to take steps to send EX.P10 to forensic lab to get expert opinion and he had also fully participated in the trial, Ex.D4 was marked during the the cross examination even on 04.04.2019 itself, but he has not taken steps to send both the documents to get expert opinion. After completing the prosecution witnesses and defense witnesses thereafter hearing the arguments at the time of fag end of the arguments, the petitioner had filed the petition under Section 311 Cr.P.C. r/w Section 45 of Indian Evidence Act, which is highly belated. He would further submit that the petitioner being fully aware about the existence of the document only in order to protract the case, filed the petition before the Additional Sessions Court for sending Ex.P10 and Ex.D4 to handwriting expert, which was rightly dismissed and there is no perversity, infirmity or illegality in the order passed by the Court below and the same does not warrant interference.

4. Admittedly the respondent police registered a case against the petitioner and seven others in Crime No.929 of 2012 for the aforesaid offences and the petitioner has been arrayed as A3. After investigation, the respondent police laid a charge sheet and the same was taken on file in S.C. 187/2014 on the file of the Additional Sessions Judge, Chengalpattu. After the completion of the trial, during the stage of arguments, the petitioner filed the petition under Section 311 Cr.P.C. r/w. Section 45 of the Indian Evidence Act to send Ex.P10 and Ex.D4 for getting opinion from the handwriting expert and the learned District Judge dismissed the same. No doubt Ex.P10 came to the knowledge of the petitioner even in the year of 2014 itself and by that time the petitioner had not taken any steps to send the same to get expert opinion. Though the learned senior counsel appearing for the petitioner would submit that only after the marking of the documents he can approach the court to send the aforesaid documents for the expert opinion, the same is not acceptable either in law or on facts or on logic for the reason that the charge sheet was laid against the petitioner and charges were framed on 30.11.2018 and thereafter the trial commenced even in the year 2018 itself and prosecution examined 33 witnesses for almost morethan one year. Even during the prosecution witnesses, Ex.P10 was marked in the month of August 2019, even before that Ex.D4 was marked in the month of April 2019 itself. The petitioner should have taken steps to send those documents even at that stage, which is one year prior to filing of this petition under Section 311 of Cr.P.C.. , but having waited for the completion of the prosecution evidence and at the fag end of the arguments, the petitioner has filed the petition, which clearly shows that the petitioner has filed the petition only to protract the case not on any other grounds.

But, in order to meet the ends of the justice, this Court finds that if the documents are sent for getting expert opinion, no prejudice would be caused to the prosecution and therefore in order to give one more opportunity to the petitioner to prove his defense, this Court is inclined to set

aside the order passed by the learned Additional District and Sessions Judge, Chengalpattu.

5. Accordingly, the order dated 18.12.2020 passed by the learned Additional District & Sessions Judge, Chengalpattu is set aside and the trial Court is directed to send Ex.P10 and Ex.D4 to forensic lab for comparison. However, since the petitioner has approached the Court with inordinate delay, the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) towards corona fund in the name of The Joint Secretary to Government and Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009 within a period of one week from the date of receipt of a copy of this order and on production of the receipt, the learned Additional District and Sessions Judge, shall receive the both the documents in original and send to the forensic science lab as per existing guidelines and on receipt of the report, the learned Additional District and Sessions Judge is directed to proceed the Sessions case in accordance with law.

Accordingly, this Criminal Revision case is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arr

To

1.The Additional District Sessions Judge,  
Chengalpattu

2.The Inspector of Police,  
St.Thomas Mount Traffic Wing,  
Chennai.

WEB COPY

3.The Joint Secretary to Government and Treasurer,  
Chief Minister's Public relief fund  
Finanace (CMPRF) Department  
Government of Tamilnadu, Secretariat, Chennai-9.

4.The Public Prosecutor,  
High Court Madras.

+2ccs to the Mr. Damodaran, Advocare, Sr.No. 6391

Cr1.R.C.No.56 of 2021

MG (CO)  
RMP (01/03/2021)



WEB COPY