

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.No.1769 of 2021
and
Crl.MP.No.1024 & 1025 of 2021

M.B.Manikandan,
S/o.Balakrishnan.

...Petitioner

Vs.

Prabhu @ Pream,
S/o.J.V.Soundarrajan.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 29.12.2020 passed in Memo dated 23.09.2020 in CMP.No.2474 of 2019 in STC No.450 of 2018 on the file of Judicial Magistrate (Special Court for Land Grabbing Cases) Salem and allow the above Criminal Original Petition.

For Petitioner : Mr.R.Nalliyappan

ORDER

This petition has been filed challenging the order passed by the Court below in the Memo dated 23.09.2020, appointing one Mr.Ramamoorthy, who is a Senior Member of the Salem Bar Association, to translate an oral conversation that took place in Sowsashtra language to Tamil.

2.The respondent has filed a complaint against the petitioner under 138 of Negotiable Instruments Act. In the course of evidence, one of the evidence that was sought to be brought in, was a conversation that took place in Sowsashtra language. Earlier, the Court below thought it fit to send it for translation to some competent expert and accordingly it was sent to Periyar University to see if there are skilled persons, who can translate Sowsashtra language into Tamil. It was informed to the Court below that the University does not have any person, who can translate Sowsashtra language into Tamil.

3.The Court below had taken into consideration the facts and circumstances of the case and also ascertained from the Bar and found that one Mr.Ramamoorthy, who is the Senior Member of the Salem Bar Association is well acquainted with Sowrashtra language and the task has been assigned to him to translate the Sowrashtra language into Tamil.

4.The grievance of the petitioner is that earlier the Court below had come to a conclusion that the translation must be done only by an expert and was not willing to engage the services of any private person. Later, the Court below has completely reversed its stand and has now sought the assistance of the member of the local Bar. This, according to the petitioner amounts to review of the earlier order.

5.In the considered view of this Court, the oral evidence is sought to be brought in as a piece of evidence in proceedings initiated under Section 138 of the Negotiable Instruments Act. The Court below must ultimately be able to understand the conversation that took place in the audio, in the language known to the Court and the parties. Therefore, there is nothing wrong in the Court below resorting to various means in order to ascertain a person who can translate the audio conversation, which took place in Sowrashtra language. The Court below has identified a senior member of the Salem Bar Association, who is well acquainted with Sowrashtra language and requested him to translate and submit the translation before the Court below. This Court does not find any illegality or infirmity in the decision taken by the Court below. After the translation is done and a copy is also furnished, if the petitioner is able to find something fundamentally wrong, it is always open to him to establish the same with sufficient materials. To that extent the interest of the petitioner can be safeguarded. Apart from that, there is absolutely no ground to interfere with the order passed by the Court below.

6.In view of the above, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.No.450 of 2018, within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1. The Judicial Magistrate
(Special Court for Land Grabbing Cases)
Salem.
2. The Additional Public Prosecutor,
High Court, Madras.

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and

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SSD(CO)
KKV/15/03/2021



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