

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.6887 of 2021

and

Crl.M.P.No.4571 of 2021

D.Ben Robins

... Petitioner

Vs.

State Rep.by
The Inspector of Police (Crime)
T9, Pattabiram Police Station
Chennai 600 072.

... Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 21.12.2020 passed in C.M.P.No.6015 of 2019 in C.C.No.184 of 2017 on the file of the learned Judicial Magistrate No.II, Tiruvallur.

For Petitioner : Mr.V.V.Sairam

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 21.12.2020 passed in C.M.P.No.6015 of 2019 in C.C.No.184 of 2017 on the file of the learned Judicial Magistrate No.II, Tiruvallur.

2. The petitioner is the accused in C.C.No.184 of 2017, facing trial for the offence under Sections 406, 420, 294(b) and 506(i) of IPC before the Judicial Magistrate No.II, Tiruvallur, and now he has filed this Crl.O.P. against the order passed by the trial Court in Crl.M.P.No.6015 of 2019.

3. The contention of the petitioner is that the respondent-Police had filed 311 petition seeking to mark the two documents viz., i) Federal Bank Statement of the petitioner and ii) another document in the name of Goodwill Center. The above documents, which are intended to mark, were not referred to either in the FIR or in 161 statement of PW1, which clearly

shows that the petition was filed under Section 311 only to fill up the lacuna. However, the Trial Court allowed the said petition partly by permitting to mark the Bank Statement.

4. The learned counsel for the petitioner by relying on the judgment of the High Court of Rajasthan submitted that filing of fresh document arises only in case where subsequent charge sheet is filed in pursuance of further investigation. However, it is not the case before this Court. Hence, he prayed to set aside the order passed by the Court below.

5. The learned Additional Public Prosecutor has submitted that in this case, the petitioner was charged and facing trial for the offence under Sections 406, 420, 294(b) and 506(i) IPC. He further submitted that the petitioner had conducted chit and cheated several persons. PW1 was examined in part and the chief examination of PW1 is yet to be completed. During investigation, the respondent-Police collected Bank Statement and Statement in the name of Good Will School. Thereafter, they filed 311 petition to mark the above documents and the same was objected by the petitioner herein. The trial Court after hearing both sides has rightly marked the Bank Statement, which is a public document. However, rejected the other document in the name of Good Will School as no signature was found in it. Further, the petitioner has a chance to cross examine PW1 and hence allowing the 311 petition will not affect the petitioner herein in any way. Hence, he prayed to dismiss the present CrI.O.P.

6. Considering the rival submissions, it is seen that PW1 was examined in chief in part and even though the marking of the Bank Statement was objected by the petitioner, the Trial Court has rightly allowed to mark the Bank Statement and rejected the other document. This Court finds no infirmity or illegality in the order of the trial Court. Hence, this Court is inclined to dismiss the Criminal Original Petition.

7. Accordingly, this Criminal Original Petition is dismissed. However, since the Calender Case is of the year 2017, this Court directs the Trial Court to complete the trial within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VI)

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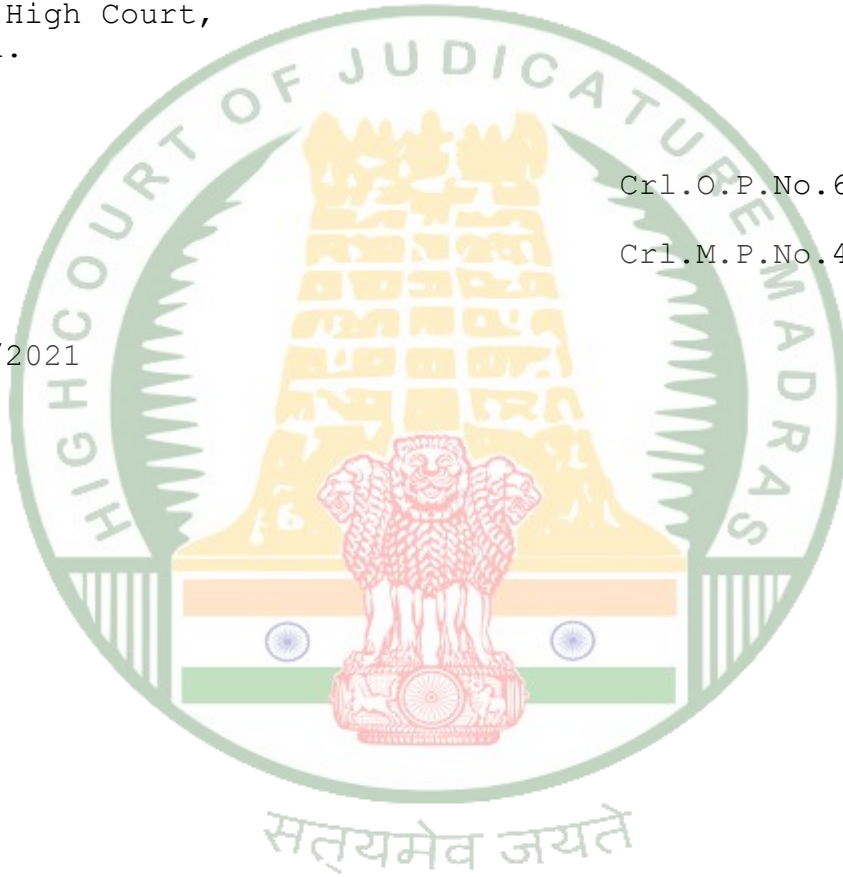
Sub Assistant Registrar

dna
To

- 1.The Judicial Magistrate No.II,
Thiruvallur.
- 2.The Inspector of Police (Crime)
T9, Pattabiram Police Station
Chennai 600 072.
- 3.The Public Prosecutor,
Madras High Court,
Chennai.

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and
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pvs[col]
srg 09/07/2021



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