

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.NO.4112 OF 2021

G.R.Vinayagamoorthy

...Petitioner/Defacto Complainant

Versus

The Inspector of Police,
(Crime)
V3, JJ Nagar Police Station,
Chennai-40.
Crime No.1296 of 2020

...Respondent/Complainant

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to issue the direction to the respondent to proceed the Forensic Test of the forged WILL within stipulated time fixed by this Court in Cr.No.1296 of 2020.

For Petitioner : Mr.L.Baskaran

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

O R D E R

This petition has been filed for a direction to the respondent police to send the alleged forged Will for forensic examination.

2 Heard Mr.L.Baskaran, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned counsel for the respondent.

3. According to the petitioner, the accused persons had fabricated and forged a Will as if it was executed by the father of the petitioner. A complaint was given before the respondent police and the First Information Report has been registered in Crime No.1296 of 2020 on 14.12.2020 for the offences under Section 467,468 and 474 of IPC. It is also brought to the notice of this Court that in the course of investigation, when the respondent police took steps to seize the Will in question, they came to know that the accused persons have filed a petition before this Court seeking for probate based on the forged Will. Therefore, the respondent police was

not able to seize the Will in question.

4. It is brought to the notice of this Court that the petition filed by the accused persons is in SR. stage in OP.SR.No.85262 of 2021. The apprehension raised by the learned Additional Public Prosecutor is that if the bundle is returned back to the accused persons, it is possible that they may destroy the document. Therefore, the learned Additional Public Prosecutor has requested this Court to give a direction to the Registry not to return the bundle. It was submitted that either this petition can be numbered and brought before the Court and thereafter, the Court can direct for sending the Will for an expert opinion or this Court can direct the Registry to hand over the original Will in order to enable the respondent police to get the expert opinion.

5. Where an offence of forgery takes place even before the document is relied upon before the Court, there is no bar for the police to proceed further with the investigation. Useful reference can be made to the judgment of the Hon'ble Supreme Court in Sachida Nand Singh and another Vs State of Bihar and another reported in 1998 (2) SCC 493. It will also be beneficial to rely upon the judgment of the Hon'ble Supreme Court in Mahesh Chand Sharma Vs. State of Uttar Pradesh and others reported in 2010 (2) SCC CrI. 660.

6. In view of the above, there shall be a direction to the Registry not to return the bundle filed in OP.SR.No.85262 of 2020. The Registry is directed to prepare a certified copy of the Will that has been filed before this Court and hand over the original Will to the Investigating Officer in order to enable the Investigating Officer to get an expert opinion. The Registry can proceed to number the petition with the certified copy of the Will. The respondent Police immediately after obtaining the expert opinion, shall file the copy of the opinion before the Registry and the same shall be made part of the case bundle. Ultimately, the further process in this case will depend upon the expert opinion that is given on the alleged forged Will. This will equally apply both for the criminal case as well as the petition filed before this Court seeking for probate.

7. This Court is forced to adopt this rather novel method in order to ensure that the accused persons in order to escape from the criminal prosecution should not find the Court to be a safe haven to file a document in question and thereby, prevent the Investigating Officer from proceeding further with the case. That will tantamount to abuse of process of Court and may lead to a situation where the accused persons will escape from the clutches of law.

8. This Criminal Original Petition is disposed of accordingly.

-s/d-

Assistant Registrar (CS-IV)

08.03.2021

***Corrected Order to be issued**

Sd/-

Sub Assistant Registrar

12.03.2021

True Copy

Sub-Assistant Registrar

rli

To

1. The Inspector of Police (Crime)
V3, JJ Nagar Police Station,
Chennai-40.

- *2. The Sub Assistant Registrar, Original Side, High Court, Madras-104.** To be Substituted to the Order Already Despatched on 10.03.2021

3. The Public Prosecutor,
High Court of Madras.

+1CC to Mr.L.Baskaran, Advocate sr 13505.

Cr1.O.P.No.4112 of 2021

VBA (CO)
SP (08/03/2021)
CS/12/03/2021

सत्यमेव जयते

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