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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.13860 of 2021

Dr. B. Wilson

...Petitioner

Versus

1. State rep. by
The Inspector of Police,
S-13, Chrompet Police Station,
Chennai.

2. Mrs. Chellathangam

...Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to pass appropriate direction to include the Indian Overseas Bank (IOB), Bank Statement bearing Account No.077801000005957 in the name of B.Wilson, s/o. Benson to form part of the documentary evidence filed along with the final report in C.C.No.301/2018 pending on the file of the learned Judicial Magistrate, Tambaram.

For Petitioner :Mr. M. Deivanandam

For Respondent :Mr. A. Damodharan,
Government Advocate (crl. side)
for R1

ORDER

The petitioner/defacto complainant in Crime No.890 of 2017 has filed this petition seeking appropriate direction to include the IOB Bank statement bearing Account No.077801000005957 in the name of the petitioner to form part of the documentary evidence filed along with the final report in C.c.No.301 of 2018.

2. The contention of the petitioner is that the petitioner is a retired Additional Director of Veterinary Department . In the year 2015, his daughter finished her +2 education. At that time, he was approached by the Chellathangam, Nagercoil, who represented himself that he had connection with the then MLA Pachammal and through him, he can get college admission for the daughter of the petitioner in the Meenakshi Medical College, Kanchipuram, for which, the petitioner paid a sum of Rs.30 lakhs



on 04.05.2015 in the presence of the witnesses. Thereafter, the said person, namely Chellathangam, failed to get the medical seat. After perseverance, during the month of August 2015, a sum of Rs.5 lakhs and October 2015, another sum of Rs.5 lakhs were credited to the IOB account of the petitioner A/c.No.077801000005957 and another sum of Rs.9,31,000/- has been handed over to the petitioner in cash and a balance sum of Rs.10,61,000/- has not been repaid and thereby, cheated the petitioner. Hence, he lodged a complaint against the 2nd respondent/accused and thereafter, First Information Report has been registered in Crime No.890/2017 for the offence under Section 420 IPC and investigation completed and chargesheet filed and the same has been taken on file as CC No.301 of 2018 on 16.11.2019. Now, the petitioner came to know that the particulars with regard to payment of Rs.5 lakhs through the bank account by the accused has not been recorded and not been substantiated with any documents, despite the petitioner, in his complaint as well as in his 161 Cr.P.C. Statement specifically mentioned about the same. Further more, the petitioner had filed a petition in Crl.M.P.No.1596 of 2020 under Section 301(2) r/w. 24(8) of Cr.P.C to assist the Assistant Public Prosecutor to conduct the prosecution and to file written arguments after the evidence is closed in the case and the said petition is yet to be disposed of.

3. The learned Government Advocate (crl. side) appearing for the first respondent, on verification of the documents and the final report, would submit that the petitioner in his complaint as well as in his 161 Cr.P.C. statement has specifically mentioned about the payment of the said sum of Rs.5 lakhs made by the accused and the accused also admitted the same in his confession. The marking of the statement of account can be done by the petitioner at the time of trial.

4. I have considered the submissions made on either side and perused the materials available on records carefully.

5. From the perusal of the materials, it is seen that in the complaint as well as in the 161 Cr.P.C. statement, the deposit of Rs.5 lakhs by the accused is clearly mentioned. The copy of the passbook is also perused. In view of the same, the petitioner as well as the respondent police have to secure necessary documents as per the Bank Book of Evidence Act from the concerned bank and to produce the same during trial, same to be marked as Exhibit. Further the Trial Court, Judicial Magistrate-I, Tambaram, is directed to consider the Crl.M.P.No.1596 of 2020 and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.



6. With the above direction, this Criminal Original Petition is allowed/disposed of.

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s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

mrp

To

1. The Judicial Magistrate I, Tambaram
2. The Inspector of Police,
S-13, Chrompet Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras

+2 Ccs to Mr.M. Deivanandam, Advocate sr 39269.

CRL.O.P.No.13860 of 2021

KSM(CO)
SP(02/09/2021)