



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.10328 of 2022 & Crl.M.P.No.6134 of 2022

1.Selvi
2. Suresh

... Petitioners/Accused

Vs.

The State Rep. by
The Inspector of Police,
District Crime Branch,
Thiruvannamalai Town,
Thiruvannamalai District.

... Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in order dated 30.03.2022 made in Crl.R.P.No.15 of 2021 passed by the Principal District & Sessions Court, Tiruvannamalai confirming the Order dated 21.10.2021 made in Crl.M.P.No.1629 of 2021 in C.C.No.89 of 2021 passed by the Judicial Magistrate No.I, Tiruvannamalai and set aside the same.

For Petitioner : Mr.B.Jawahar
for Mr.R.Vasudevan

For Respondents: Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

Mr.E.Kannadasan - for defacto complainant

O R D E R

This Criminal Original Petition has been filed challenging the Order of the learned Judicial Magistrate in allowing the application to adduce additional evidence in the form of pen drive which is said to be a conversation recorded between the defacto complainant.



2. The main contention put forth by the learned counsel appearing for the petitioner is that the certificate under section 65 [B] of the Indian Evidence Act has not been obtained by the Cell Phone agency. It is his further contention that no proper affidavit has been filed either by the defacto complainant or the investigating agency and no reason has been assigned why the above document has not been collected earlier. Therefore, allowing such a document for marking will certainly prejudice the rights of the accused.

3. At the outset, this Court is of the view that such a contention has no relevance at all. Mere marking of any document will not amount to proof of the contents of the same. Admittedly, the conversation is said to have been copied in a pen drive and the same has been produced and necessary certificate under section 65[B] of the Indian Evidence Act has also been filed along with the same. Whether the certificate is valid or not is a matter for appreciation. Further mere exhibiting a document will not amount to proof of the document. The prosecution has to establish the authenticity of the document by proving its contents as per law. The petitioner is at liberty to raise all his legal objections during the cross examination. It is also open to the petitioner to seek expert evidence in the regard. At any stage, if the petitioner files a petition seeking expert evidence, the trial Court shall permit the petitioner to prove the authenticity of the so called conversation.

4. With the above observations, this Criminal Original Petition is dismissed. The trial Court shall expedite the trial and dispose of the case expeditiously. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

vrc

To

1. The Principal District & Sessions Judge,
Thiruvannamalai.



2. The Judicial Magistrate No.I,
Thiruvannamalai.

3. -do-Through The Chief Judicial Magistrate,
Thiruvannamalai.

4. The Inspector of Police,
District Crime Branch,
Thiruvannamalai Town,
Thiruvannamalai District.

5. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.E.Kannadasan, Advocate SR.No.33001

+1cc to Mr.B.Jawahar, Advocate SR.No.33969

Crl.O.P. No.10328 of 2022

RK(CO)
GMV(04/07/2022)