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Criminal Original Petition No.15577 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.15577 of 2023
and Criminal Miscellaneous Petition Nos.9665 & 9667 of 2023

R.Prasad @ Ramichetty Prasad

...Petitioner

Vs

State rep by
The Inspector of Police,
Central Crime Branch
EDF-I, Team-I
Vepery, Chennai 600 007
Crime No.84 of 2022

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to direct the charge sheet documents LD-8 and the vouchers LD-10 to LD-23 in C.C.No.2777/2023 pending on the file of the Metropolitan Magistrate (exclusive Court for trial of CCB & CBCID cases), Egmore, Chennai be sent for a forensic hand writing expert's analysis and report from any state or central forensic department other than the Tamil Nadu Forensic Science Department, Chennai.



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Criminal Original Petition No.15577 of 2023

For Petitioner : Mr.B.Mohan

For Respondent : Mr.A.Damodaran,

Additional Public Prosecutor

ORDER

This Criminal Original petition has been filed for a direction to send the disputed documents for getting the forensic handwriting experts opinion.

2. The petitioner is facing trial before the Court below for an alleged offense under Section 406 and 420 of IPC. The case against the petitioner is that the Defacto complainant is running a jewellery business and is in the practice of engaging agents by entering into service agreement and he sells his jewelery to the customers in various places. The petitioner is said to be one of such agent appointed by the defacto complainant under service agreement dated 05.03.2021. The petitioner was supposed to be the agent for the state of Andhra Pradesh. The allegation made against



the petitioner is that the defacto complainant had entrusted the jewels to the petitioner on 07.01.2022 and the petitioner while receiving the same had also signed in vouchers and ultimately, the petitioner committed criminal breach of trust and cheating.

3. The complaint was given against the petitioner and an FIR came to be registered in Crime No.84 of 2022 by the respondent police on 18.05.2022. The main defense that has been taken by the petitioner is that he has not signed any service agreement or in any of the vouchers and that a false case has been foisted against him by the defacto complainant. The petitioner therefore wanted the disputed signature to be sent for getting expert opinion. Even during the course of investigation, the petitioner had moved this Court by filing Crl OP No.18738 of 2022 and this Court by an order dated 10.08.2022 directed the respondent police to take the aid of an handwriting expert and to get an opinion.

4. Ultimately, a final report came to be filed and the



petitioner was issued summons and he appeared before the Court below. The Court furnished copies of the documents to the petitioner under Section 207 of Cr.PC. At that point of time, the petitioner realized that apart from the service agreement, his signature has also been forged in the vouchers that has been relied upon by the prosecution numbering 14 documents. Hence, the petitioner wanted the vouchers as well as the disputed service agreement to be sent for expert opinion. This exercise is resorted to by the petitioner only to establish his defense that he had not signed in any of these documents and that he has been falsely roped in this case. It is under these circumstances, the present writ petition has been filed before this Court.

5. The learned counsel for petitioner submitted that pursuant to the order passed by this Court in Crl OP No.18738 of 2022, the respondent took steps to send the service agreement for expert opinion to the Forensic Science Department at Chennai. The Deputy Director of the Forensic Science Department through letter



dated 21.12.2022, had returned back the sealed cover by making the following observations :-

The questioned signatures found in original agreement dated 05.03.2021 [Q1 to Q12] and the admitted signatures found in rent letter dated 23.03.2021 [A1 to A5] and the specimen signatures [s1 to S5] are found to be different in their pattern. For handwriting examination the signatures of similar pattern alone could be compared. Hence, some (5 to 10 Nos) admittedly genuine signatures of the concerned person [pattern as found in the questioned documents] made in the ordinary center of business on some existing documents like bank documents, registered documents and invoices, vouchers and any other original documents, preferably made during the years 2018 to 2021 may be procured and send for examination.

6. The learned counsel for the petitioner submitted that it



is quite apparent from the report of the Forensic Science Department that no comparison was made and no opinion was given. In spite of the same, the respondent police have proceeded further to file a final report against the petitioner for an alleged offense under Section 406 and 420 of IPC. Therefore, it was contended that the petitioner will be able to substantiate his defense only if the disputed documents are sent for expert opinion to a reliable agency.

7. Per contra, the learned Additional Public Prosecutor appearing on behalf of respondents submitted that after the expert had returned back the cover, the respondent police took efforts to call the petitioner to get his sample signatures and that the petitioner did not co-operate. Therefore, left with no other alternative, the investigation was completed and a final report was filed before the Court.

8. In the considered view of this Court, the main defence



that has been taken by the petitioner is that he was not engaged as an agent by the defacto complainant and that the petitioner never signed any service agreement or vouchers as alleged by the prosecution. In order to substantiate this defence, the signatures that are found in the service agreement and the vouchers will have to be necessarily sent for getting an expert opinion. If ultimately, it is found that the signature contained in those documents are not that of the petitioner, the very foundation of the case will get effaced. On the contrary, if it is found that the signatures found is that of the petitioner, it will only further strengthen the case of the prosecution, as against the petitioner. Therefore, when the 15 documents that are questioned, is the basis for the prosecution to substantiate this case, it will be more beneficial both for the petitioner as well as the prosecution to get an expert opinion regarding the signature that is found in the service agreement and the vouchers that are relied upon by the prosecution.

9. There is no use in getting the signature of the petitioner



at this point of time since it is always possible that the petitioner may come up with different signature. Therefore the safest method that can be adopted for comparison of signature would be to get the admitted signature made during the contemporaneous period of time within a range of two to three years. This is the standard practice that is followed whenever the signature is disputed and it is sent for getting expert opinion.

10. In the light of the above discussion, this Court is inclined to give an opportunity to the petitioner to substantiate his defence by sending the disputed documents for expert opinion.

11. This Criminal Original Petition is disposed of with the following directions :-

(a) The petitioner is directed to furnish registered original documents containing the signature / any other reliable documents for the period from 2018 to 2021, to the Court below on 20.07.2023.

(b) The Court below is directed to receive the



documents contained in Clause (a) and send the same along with the service agreement dated 05.03.2021 and the 14 vouchers that were furnished to the petitioner, seeking for expert opinion.

(c) The Court shall seek for the expert opinion from the Forensic Science Department, Mylapore, Chennai and such opinion shall be given by any other expert other than Mr.D.Panchatcharam and

(d) Till the opinion is received by the Court below, the proceedings shall be kept in abeyance.

12. This Criminal Original Petition is disposed of in the above terms. It is made clear that immediately on receipt of the opinion, the Court below shall proceed further with the case and complete the trial and dispose of the case as expeditiously as possible. Consequently, the connected miscellaneous petition is closed.

12.07.2023

Index : Yes/No

Speaking order:Yes/No

Neutral citation:Yes/No

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Criminal Original Petition No.15577 of 2023

To

The Inspector of Police,
H-3, Tondiarpet Police Station,
Chennai District.

The Public Prosecutor
High Court, Madras



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N.ANAND VENKATESH, J

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