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Crl.A.No.1314 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.A.No.1314 of 2022

Dr.K.Madhuram, d/o Krishnamoorthy ... Appellant

Vs.

State, rep. by the Inspector of Police,
CBCID Metro Wing, Chennai. ... Respondent

Prayer: Criminal Appeal filed under Section 454 of Cr.P.C. to set aside the order dated 12.09.2022 passed in Crl.M.P.No.2151 of 2022 in C.A.No.134 of 2020 on the file of the XX Additional District Sessions Judge, Allikulam, Chennai by allowing this appeal and direct the said court to return the original M.D.S. Certificate (Ex.P6) and CRRI certificate (Ex.P8) to the petitioner.

For Appellant : Mr.A.M.Rahamath Ali
For Respondent : Mr.C.E.Pratap,
Government Advocate (Crl. Side)

ORDER

Challenging the order dated 12.09.2022 passed in Crl.M.P.No.2151 of 2022 in C.A.No.134 of 2020 by the XX Additional District Sessions Judge, Allikulam, Chennai, this Criminal Appeal has been filed.

2. The appellant herein is the defacto complainant in a case registered



Crl.A.No.1314 of 2022

WEB COPY

in Crime No.349/2008 by the respondent police, against one Dr.Ramprakash, for the offences punishable under Sections 465, 468, 420 and 471 r/w 465 IPC. After filing Charge sheet, the case was taken on file as C.C.No.3203 of 2017 by the Metropolitan Magistrate Court for Exclusive Trial of CCB-CBCID Cases, Chennai. The Trial Court, upon perusing the oral and documentary evidences adduced on both sides, acquitted the respondent/accused, vide judgment dated 30.01.2020. Challenging the above judgment, the appellant herein filed an Appeal in C.A.No.134 of 2020 before the XX Additional District and Sessions Judge, City Civil Court, Allikulam, Chennai.

3. The appellant filed a petition in Crl.M.P.No.5035/2021 before the above said learned Metropolitan Magistrate to return the original M.D.S.Certificate and CRRI Certificate, which were marked as Ex.P6 and Ex.P8 respectively in C.C.No.3203/2017, and the same was dismissed on the ground that, since appeal is pending, the petition is not maintainable. Thereafter, the appellant filed a petition in Crl.M.P.No.2151 of 2022 before the lower appellate Court to return the above said documents and the same was dismissed, vide order dated 12.09.2022 on the ground that against the order passed in Crl.M.P.No.5035 of 2021, revision petition only will lie. The



Crl.A.No.1314 of 2022

above said order is impugned herein.

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4. The learned counsel for the Appellant submitted that, upon receiving the complaint from the de-facto complainant/ appellant, the respondent police registered a case in Crime No.349 of 2008 and after investigation, the investigating officer filed 5 charge sheets, since the offence of fraud was committed in respect of five different transactions and the same were taken on file and tried by the Trial Court in C.C.Nos.3199, 3200, 3201, 3202 and 3203 of 2017. He further submitted that, during the course of investigation, the appellant handed over her original M.D.S. Certificate and CRRI Certificate, (which were marked as Ex.P6 and Ex.P8 respectively) to the investigating officer for comparison of her signature and handwriting. The above cases were ended in acquittal, against which, the appellant filed Criminal Appeals in C.A.Nos.130, 131, 132, 133 and 134 of 2020 and the same are pending. He further submitted that, the appellant is employed as faculty in a Medical College and during periodical inspection, she is bound to produce the certificates. Therefore, appropriate direction may be issued to the XX Additional District and Sessions Judge, City Civil Court, Chennai to return the documents to the appellant.

5. The learned Government Advocate (Crl.Side) submitted that, the



Crl.A.No.1314 of 2022

WEB COPY

Appeals in C.A.Nos.130, 131, 132, 133 and 134 of 2020 are pending before the XX Additional District and Sessions Judge, City Civil Court, Allikulam, Chennai and hence, the certificates, which were marked as Ex.P6 and P8, cannot be returned to the appellant.

6. Heard the learned counsel for the appellant and the learned Government Advocate (Crl.Side) appearing for the respondent and I have perused the materials on record.

7. A perusal of the records shows that in respect of Crime No.349 of 2008, 5 charge sheets were filed, alleging that the fraud was committed in respect of five different transactions. The above cases were tried by the Trial Court in C.C.No.3199, 3200, 3201, 3202 and 3203 of 2017 and the same were ended in acquittal. Against which, appeals in C.A.Nos.130, 131, 132, 133 and 134 of 2020 were filed by the appellant and are pending. It is the contention of the learned counsel for the appellant that during the course of investigation, the appellant handed over her original Certificates for M.D.S. and CRRI, to the investigating officer for comparison of her signature and handwriting. Further, since trial is completed and the cases were disposed of, there is no necessity to retain the original documents.



Crl.A.No.1314 of 2022

WEB COPY

8. It reveals from the records that, already, the appellant filed a petition under Section 452 of Cr.P.C. in Crl.M.P.No.5035 of 2021 to return the above documents and it was dismissed by the Trial Court, viz., Special Court for CCB & CBCID Metropolitan Magistrate Court, Egmore, Chennai, stating that since appeal is pending, the petition cannot be maintained. Therefore, the appellant filed a petition in Crl.M.P.No.2151 of 2022 in C.A.No.134 of 2022 before the first appellate court to return the documents. However, the learned Judge dismissed the petition on the ground that already the petition to return the documents was dismissed by the Trial Court and hence, the appellant cannot file another petition seeking the same relief for return of documents and she can file only Revision Petition against the dismissal order passed in Crl.M.P.No.5035 of 2021 by the Trial Court.

9. It is to be noted that the copies of the original documents, i.e. Certificates for M.D.S. and CRRI, sought to be returned to the petitioner, were already marked as exhibits in the connected matters. Further, the evidence with regard to comparison of signature and hand writing of the petitioner was also already recorded and the cases were disposed of by the Trial Court. Now, the Appeal in C.A.No.134 of 2020 and the connected



Crl.A.No.1314 of 2022

WEB COPY

appeals in C.A.No.130, 131, 132 and 133 of 2020 are pending for arguments before the first appellate Court. In such circumstances, this Court is of the view that, retaining the original certificates of the petitioner, will not serve any purpose and hence the impugned order is unsustainable.

10. Accordingly, the Criminal Appeal is allowed and the impugned order passed by the learned XX Additional District and Sessions Judge, City Civil Court, Allikulam, Chennai in Crl.M.P. No.2151 of 2022 in Crl.A.No.134 of 2020 is set aside. The learned Judge is directed to return the original M.D.S. Certificate and CRRI Certificate to the appellant immediately, after getting attested copies of the same, duly self attested by the appellant.

02.01.2023

Index:Yes/No
Internet:Yes/No
mst

To

The XX Additional District and Sessions Judge,
City Civil Court, Allikulam, Chennai.



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Crl.A.No.1314 of 2022

V.SIVAGNANAM, J.

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Crl.A.No.1314 of 2022

02.01.2023