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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/03/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.3497 of 2023

Sivalingam : Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
Karaiyur Police Station,
Pudukottai District.
(Crime No.71 of 2018)

: Respondent/Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the order, dated 23/01/2023 passed in Cr.M.P No.469 of 2022 in SC No.11 of 2019 on the file of the Additional District and Judge, Pudukkottai and set aside the same.

For Petitioner : Mr.A.Arul Jenifer

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition is filed seeking to set aside the order, dated 23/01/2023 passed in Cr.M.P No.469 of 2022 in SC No.11 of 2019 on the file of the Additional District and Sessions Judge, Pudukkottai.

2.The facts in brief:-

The petitioner is facing the charge under section 302 IPC in SC No.11 of 2019 before the Additional District and Sessions Judge, Pudukkottai. So far, 11 witnesses have been examined on the side of the prosecution. At this stage, an application was moved by the prosecution stating that witness No.12 stated in the final report is dead and she was a Forensic Scientific Expert, who examined the material objects in RP Nos.263 and 264 of 2018 sent by the Committal Court namely the Judicial Magistrate, Thirumayam. Since she died, the prosecution moved Cr.M.P No.469 of 2022 before the trial court to examine one Sivasankari, who is working in the very same Department for proving the signature in the report, which was marked as Ex.P12.



3.That was resisted by the accused stating that the above said document was marked as Ex.P12 on the side of the prosecution and the Investigating Officer was also examined. Now the trial is going to be completed.

4.This petition has been filed stating that no proper reason has been mentioned in the petition filed before the trial court.

5.Heard both sides.

6.I am unable to appreciate the ground on which the above said petition was resisted by this petitioner. When the Forensic Scientific Expert, who has been cited as PW12 in the final report, the document must be properly proved by identifying the signature in the document by a person, who knows her signature. Unless the above said document is proved in accordance with law, mere marking of the document will not. On that account only, the trial court has allowed the petition filed by the prosecution.



7.The learned counsel appearing for the petitioner would submit that since the above said witness is dead, he may not be in a position to cross examine the witnesses with regard to the finality reached by her after analysis.

8.When the Scientific Expert, who examined the material objects is not available, the document can be proved by some other process. There can be no grievance expressed by the petitioner on this account. The witnesses are going to identify the signature in the document as well as the conclusion reached by her in the report. He is going to speak only on the basis of records. The petitioner can very well cross examine the witnesses with regard to the above said fact. So, I find no merit in this petition.

9.In the result, this criminal original petition is **dismissed**.

24/03/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Additional District and Sessions Judge,
Pudukkottai.
- 2.The Inspector of Police,
Karaiyur Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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