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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.3203 of 2024
and CRL.M.P No.2351 of 2024

N.B.Riyas Ahamed

...Petitioner

Vs.

1.State by The Inspector of Police,
Taluk Police Station,
Tiruvallore.
(Crime No.444 of 2021)

2.Nasima

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the impugned order dated 21.02.2023 passed in Crl.M.P.No.1944 of 2023 in C.C.No.439 of 2022 on the file of Judicial Magistrate-I, Tiruvallore and consequently permit the petitioner/defacto complainant to conduct the prosecution by engaging his counsel in C.C.No.439 of 2022 on the file of the Judicial Magistrate-1, Tiruvallore.

For Petitioner : Mr.B.Gurunathan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor for R1



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ORDER

This criminal original petition has been filed challenging the order passed by the Court below in CrI.M.P.No.1944 of 2023, dated 21.02.2023, wherein, the application filed by the petitioner under Section 302 of Cr.P.C., to conduct the case was dealt with and the petitioner was only permitted to assist the prosecution.

2.The petitioner is the *defacto* complainant in this case. Based on the complaint given by the petitioner, an FIR came to be registered in Crime No.444 of 2021 for offence under Sections 416, 419 and 466 of IPC. The specific case of the petitioner is that the petitioner's signature and his grand mother's signature were forged in the letters and it was issued by the accused person Nasima. According to the petitioner, the investigation did not take place effectively and after a long drawn struggle, the final report came to be filed after nearly thirteen months. The same was taken on file in C.C.No.439 of 2022 by the Court below. The further grievance of the petitioner is that the accused person was repeatedly absent in this case and the prosecution did not take any effective steps to make the accused person undergo the trial.



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3. In view of the above, the petitioner filed an application to permit the petitioner to conduct the prosecution by engaging his counsel.

4. The Court below on considering the facts and circumstances of the case and also of the fact that the defence did not give any objections, permitted the petitioner to assist the prosecution. Aggrieved by the same, the present criminal original petition has been filed before this Court.

5. In the instant case, the proof of the allegations made by the petitioner hinges upon the forged documents. Hence, the case has to be proved based on documents. That apart, the petitioner is yet to be examined in this case. Therefore, there will be sufficient opportunity for the petitioner to put-forth the case while deposing before the Court below as a witness. That apart, the alleged forged documents are available before the Court below and the Investigation Officer yet to be examined. Considering the same, it is not necessary for the Court below to permit the petitioner to conduct the prosecution in this case. Useful reference can be made to the judgment of the Hon'ble Supreme Court in

Rekha Murarka v. The State of West Bengal and Another. [SLP (Crl.) No.7848



of 2019 dated 20.11.2019]. The interest of the petitioner can be sufficiently

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N.ANAND VENKATESH, J

ssr

safeguarded if the petitioner is allowed to assist the prosecution. The order passed by the Court below does not require any interference of this Court.

6.Accordingly, this criminal original petition stands dismissed.
Consequently, connected miscellaneous petition is closed.

14.02.2024

Index: Yes/No
Internet: Yes/No
ssr

To

1.The Judicial Magistrate-I, Tiruvallore.

2.The Inspector of Police,
Taluk Police Station,
Tiruvallore.

3.The Public Prosecutor,
High Court, Madras.

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