



Crl.R.C. No. 1379 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2024

CORAM

THE HON'BLE MR. JUSTICE M. NIRMALKUMAR

Criminal Revision Case No. 1379 of 2024

&

Crl.M.P. No. 11729 of 2024

Sivaraj

..Petitioner

Vs.

1. State rep. by
The Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore – 641 020.

2. K. Jogaraj
3. R. Karupusamy

..Respondents

Prayer: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS/Cr.P.C. to call for the records pertaining to the issue of the order in C.M.P. No. 41259 of 2023 dated 09.07.2024 in C.M.P. No. 16597 of 2023 in RCS No. 107 of 2023 in Crime No. 410 of 2016 dated 26.07.2024 on the file of Judicial



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Magistrate V, Coimbatore and set aside the same and to direct Judicial Magistrate V, Coimbatore and consequently send the disputed signature reflected in the alleged partnership deed dated 06.07.2025 with the admitted signature of the petitioner in tenancy agreement dated 01.06.2015 and in the retirement order copy in the year 2014.

For Petitioner	::	Mr.D. Ashok Kumar
For Respondents	::	Mr.A. Damodaran, Addl. Public Prosecutor

ORDER

The petitioner had lodged a complaint before the Inspector of Police, Periyanaickenpalayam Police Station, Coimbatore, against respondents 2 and 3, namely, Jogaraj and Karupusamy, on 21.09.2016. Based on his complaint, a case in Crime No. 410 of 2016 was registered for offences under Sections 468 and 403 IPC against respondents 2 and 3. After investigation, a negative report in RCS No. 107 of 2020 was filed as against which the petitioner filed a protest petition in C.M.P. No. 16597 of 2023. Pending the protest petition, the petitioner filed a petition under Section 45 of Indian Evidence Act in Crl.M.P. NO. 41259 of 2023 to refer the disputed signatures reflected in partnership deed dated

06.07.2016 with the admitted signatures in tenancy agreement dated 01.06.2015



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for handwriting opinion and the said application came to be dismissed by order dated 26.07.2024. Challenging the same, the present revision has been filed.

2. The contention of the learned counsel for the petitioner is that petitioner leased a property from one R. Vijayakumar on 01.06.2015 for running a supermarket for a period of two years on a monthly rent of Rs.55,000/-. He had paid the advance amount and made preparations for starting his business. At that time, Jogaraj and Karupusamy/respondents 2 and 3 herein, who are neighbours of the petitioner had come forward to carry out certain interior decoration work. As and when they were carrying out the work, payments were made then and there. On 02.09.2015, at about 10p.m., the said Karupusamy trespassed into the petitioner's shop and took away Rs.50,000/- and some other valuables. Thereafter, a complaint was lodged. Initially, only CSR number was assigned and FIR came to be registered much later. The said Karupusamy and Jogaraj were adopting ways and means to somehow take over the business of the petitioner. With this intention, they had created a partnership deed by antedating it as 06.07.2015 with the help of receipts and other vouchers kept at the supermarket and by forging the petitioner's signature as if he is a party to the said partnership. Further, they lodged a complaint against the petitioner stating that the petitioner is quarrelling with them and preventing them from running the supermarket. Moreover, with the fabricated documents, they obtained an order of injunction from the Court and prevented the petitioner from entering his shop and took away goods worth Rs.30



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lakhs thereby causing loss to the petitioner. Hence, the complaint. According to the learned counsel, the registration of the complaint had taken some time and only after the petitioner approached this Court in CrI.O.P. No. 2273 of 2016, FIR came to be registered in Crime No. 410 of 2016 for offences under Sections 468 and 403 IPC. Though a direction was issued by Judicial Magistrate No.V., Coimbatore in CrI.M.P. No. 3524 of 2019 filed by the petitioner, to file a final report, the 1st respondent Police had closed the complaint and referred the matter to Court. As a result, the learned Judicial Magistrate in RCS 107 of 2020 sought the objection of the petitioner in connection with the closure of the complaint by Police. As against the proceedings in RCS 107 of 2020, the petitioner filed a protest petition in C.M.P. No. 16597 of 2023 setting out the theft of Rs.30 lakhs and forgery committed by respondents 2 and 3. Pending the said protest petition, the petitioner filed an application in CrI.M.P. No. 41259 of 2023 to refer the disputed signatures found in alleged partnership deed dated 06.07.2016 with the admitted signatures of the petitioner in tenancy agreement and his retirement order copy for handwriting opinion. The said application was dismissed by order dated 09.07.2024, which according to the learned counsel for the petitioner is unsustainable.

3. Learned Additional Public Prosecutor has filed counter and the relevant portions are extracted hereunder:

'3. It is submitted that based on the above complaint, a case was case was registered in Periyanaickenpalayam Police Station, Coimbatore Cr.N. 63 of 2016 ,U/s 457, 380 of IPC (NP) against the accused persons A-1 & A-2 on 11.02.2016 at about 09.00 hours by

<https://www.mhc.tn.gov.in/judis>



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Tr.Kalimuthu, the then Sub Inspector of Police and submitted the case before the then Inspectors of Police and he conducted investigation in this case.

4. *It is submitted that again defacto complainant namely Tr.Sivaraj, lodged a complaint against the accused persons A-1/Karuppusamy A2/Jogaraj, created a forgery document that there were the partners of the above said building and forgery signed the Defacto complainant's signature in that documents and get the injection order by using the above said document from the court. During the periods from 08.09.2015 to 18.11.2015, the accused persons sold the shop products which worth of Rs.30,00,000/-. The accused persons made lot of hindrance to the defacto complainant to run the shop. Hence, the complaint.*

5. *It is submitted that based on the above, a case was registered in Periyanaickenpalaym Police Station, Coimbatore, Cr.No. 410 of 2016 u/s. 468, 403 of IPC against the accused persons A-1 & A-2 on 21.09.2016 at about 18.00 hours by Tr.Ponnaiah, the then Sub Inspector of Police and submitted the case before the then Inspector of Police and he conducted investigation in this case.*

6. *It is submitted that After completion of detailed and elaborate investigation ,on 22.09.2016, the then Inspector of Police closed the case in Cr.No. 410 of 2010 as "Mistake of fact"and filed final report before the Judicial Magistrate – VI, Coimbatore and served the RCS Notice to the complainant vide RCS No. 36 of 2017.*

...

9. *It is submitted that the complainant filed a Criminal Miscellaneous Petition before the Judicial Magistrate No.V, Coimbatore vide Crl.M.P. No. 16597 of 2023 to call for the entire records pertaining to Cr.No. 410 of 2016 on the of the 1st respondent and take cognizance of the protest petition filed by the defacto complainant as contemplated under section 200 Cr.P.C. and the same was still pending.*

...

11. *It is submitted that aggrieved over the above said order, now, the petitioner/Defacto complainant filed this present petition to call for the records pertaining to the issue of the order in Crl.M.P. No. 41259 of 2023 dated 09.07.2024 in Crl.M.P. No. 16597 of 2023 in RCS No.107 of 2023 in Crime No. 410 of 2016 dated 26.07.2024 on the file of Judicial Magistrate -V, Coimbatore and set aside the same and to direct the Judicial Magistrate -V, Coimbatore and consequently send the disputed signature reflected in the alleged partnership deed dated 06.07.2015 with the admitted signature of the defacto complainant in tenancy agreement dated 01.06.2015 and in the retirement order copy in the year of 2014."*



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Learned Additional Public Prosecutor further submitted that the petitioner's right has not been totally denied and the stage is not appropriate and therefore, he was given liberty to seek relief at a later stage.

4. Considered the submissions and perused the materials on record.

5. Based on the complaint of the petitioner, FIR had been registered in Crime No. 410 of 2016 and thereafter, it had been closed as 'mistake of fact' in RCS 107 of 2023. The petitioner had filed a protest petition and in the said petition, the main crux of the petitioner's case is that Karuppusamy and Jogaraj had created a forged partnership deed as if the petitioner had signed the partnership deed. To prove the offence of forgery, the relevant documents have to be sent for forensic examination. Now, the case is being tried as a private complaint. Without examining the petitioner as a witness and producing documents in the trial, the same cannot be forwarded for forensic examination at this stage. The finding of the Trial Court in this regard is proper. In view of the same, this Court is not inclined to interfere with the order under challenge. However, the petitioner is given liberty, after recording evidence, to bring the forged document on record and file an appropriate application for forensic examination.

M. NIRMALKUMAR,J.



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WEB COPY 6. With the above observation, the civil revision petition stands dismissed. Connected miscellaneous petition is closed.

23.08.2024

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To

1. The Judicial Magistrate No.V,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

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