



Crl.O.P.(MD).No.299 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.11.2024**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.299 of 2023

and

Crl.M.P.(MD)No.243 of 2023

A.Louis Immanueel

... Petitioner

Vs.

1. The Inspector of Police
Nagamalai Pudhukottai Police Station,
Madurai.
In Crime No.451/2013.

2. P.Jawahar

3. Sekar

4. The Principal
S.Vellaichamy Nadar College,
Nagamalai, Madurai.
(R4 is suo-motu impleaded as per
order of this Court dated 09/02/2023).

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the memo and the docket order dated 13.12.2022 in Cr.M.P.No.1019 of 2018 in C.C.No. 383 of 2018 on the file Judicial Magistrate No.VI, Madurai and set aside the order docket order of dismissal passed on the memo filed.



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For Petitioner : Mr.A.V.Arun

For Respondents : Mr. B.Thanga Aravindh
Government Advocate (Crl.side) for R1

: Mr.P.Ganapathi Subramanian for R2

ORDER

This Criminal Original Petition has been filed challenging the docket order dated 13.12.2022 in Cr.M.P.No.1019 of 2018 in C.C.No. 383 of 2018 passed by the learned Judicial Magistrate No.VI, Madurai .

2. When the case came up for hearing before this Court on 06.01.2023, this Court passed the following order :

“The learned Counsel appearing for the petitioner would submit that on the basis of the complaint given by the petitioner, the FIR came to be registered in Crime No.451 of 2013, under Sections 419, 465, 471 and 120(1) IPC and during the pendency of the investigation, the Investigating Officer has filed an application before the jurisdictional Court under Section 311 A Cr.P.C., seeking directions of the Court to get a specimen hand writing of the accused and the learned Magistrate, considering the submissions has passed



the order, dated 23.04.2018, directing the accused to place their specimen before that Court on 24.04.2018 at 01.15 P.M, in the presence of their Counsels; that the accused has not complied with the directions of that Court and subsequently, the first respondent has laid the final report before the concerned Court and the same was taken on file as C.C.No.383 of 2018; that the petitioner after coming to know about the non-compliance of the directions by the accused, has filed a memo on 15.07.2022, seeking direction to obtain a specimen hand writing of the accused, who has appeared before the concerned Court on that date and that the learned Magistrate has passed the impugned order on 13.12.2022, by observing that the Investigation Officer has already filed the final report and that therefore, the petition filed in Cr.M.P.No.1019 of 2018 has become infructuous and the defacto complainant has no locus standi to file such memo, disposed the memo. The learned Counsel appearing for the petitioner would further submit that now, the trial Court, after completing the trial, has posted the case for judgment on 09.01.2023. The main complaint of the defacto complainant is that the accused has committed



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impersonation and forgery in writing the examination in a college, where he was a Treasurer. He would further submit that the third accused, who is the Head of the Department in that college, has allegedly written the examination for the first accused.

2.Mr.Ganapathi Subramaniam, learned Counsel takes notice for the respondents 2 and 3.

3.Post the matter on 12.01.2023.

4.The trial Court is directed not to proceed with the case till then.”

3. The case was thereafter listed for hearing on 09.02.2023 and this Court passed the following order:

“When the matter is taken up for hearing, the learned Government Advocate (Criminal Side) would submit that though the summons was issued to the Principal, S.VellaiChamy Nadar College, Nagamalai, Madurai for production of the records containing the handwriting and signature of the second accused, he has not turned up.



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2. Considering the submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side), the Principal, S.VellaiChamy Nadar College, Nagamalai, Madurai, is suo motu impleaded as fourth respondent in this matter. Registry is directed to make necessary amendment in the cause title. After making amendment, notice is ordered to the fourth respondent returnable by 22.02.2023. Private Notice is also permitted.

*3. Post the matter on **22.02.2023**.*

4. Interim order already granted is extended till then”

4. By virtue of the above order, the College was suo-motu impleaded as fourth respondent in this case and notice was issued to the impleaded fourth respondent.

5. The case was once again listed for hearing on 16.03.2023 and this Court passed the following order:-



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“The learned Additional Public Prosecutor appearing for the respondent police submitted that the summon was issued to the Principal, S.Vallaichamy Nadar College, Nagamalai, Madurai for presenting documents containing the hand writing of the second accused. However, there is no response from the college.

2. On perusal of CD file shows that there is no intimation is available with regard to the summon issued to the above said college.

3.The Investigating Officer is directed to issue fresh summon to the above said college calling the documents containing the hand writing of the second accused.

4. Post the matter on 03.04.2023. Interim order already granted is extended till then.”

6. The matter was once again listed for hearing on 27.04.2023 and the following order was passed by this Court:

“Since pursuant to the direction issued by this Court on 16.03.2023, a request was made to the



Secretary to S.Vellaichamy Nadar College, Nagamalai, Madurai, seeking certain documents containing the handwriting of one Sekar. In pursuance of which, by the letter dated 25.04.2023, the college has responded by sending a xerox copy of the documents.

2. Xerox copy of the documents cannot be compared by handwriting expert. Original document may be collected and inform the Court on 30.06.2023.

3. Interim order granted earlier is extended till then.

4. Post on 30.06.2023. ”

7. The case was once again listed for hearing today. The learned Senior Counsel appearing on behalf of the petitioner submitted that the sample hand writing has already been sent to the Deputy Director of Regional Forensic Science Laboratory, Madurai and the report is awaited. The learned Senior Counsel further submitted that the entire case now hinges upon this report that has to be given by the expert.



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8. The learned Government Advocate (Criminal Side) appearing on behalf of the first respondent submitted that the learned Judicial Magistrate is following up with the Deputy Director of Regional Forensic Science Laboratory, Madurai, from time to time and till date the report is awaited. The learned Government Advocate (Criminal Side) also produced the communication dated 05.09.2024, sent by the learned Judicial Magistrate No.VI, Madurai to the Deputy Director of Regional Forensic Science Laboratory, Madurai. On going through the same, it is seen that specimen handwriting was sent for expert opinion and the Magistrate has sought for the report at an early date.

9. In the instant case, the cross examination of witnesses has already been completed and what is awaited is only the opinion of the expert to be given by the Regional Forensic Science Laboratory, Madurai. The incident had taken place in the year 2007 and the F.I.R came to be registered only in the year 2013 and the case reached the Court only in the year 2018 and it was taken on file as C.C.No.383 of 2018. Considering the same, this Court is inclined to issue direction to the Deputy Director of Regional Forensic Science Laboratory, Madurai,



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to submit the report within the time stipulated. This will enable the Court below to complete the proceedings at the earliest.

10. This Criminal Original Petition is disposed of with a direction to the Deputy Director of Regional Forensic Science Laboratory, Madurai, to submit the expert opinion to the learned Judicial Magistrate No.VI, Madurai, within a period of six weeks from the date of receipt of copy of this order. On receipt of the same, the learned Judicial Magistrate No.VI, Madurai, shall proceed further and the case in C.C.No. 383 of 2018 shall be disposed of within a period of three months from the date of receipt of the expert opinion from the Deputy Director of Regional Forensic Science Laboratory, Madurai. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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N.ANAND VENKATESH,J.

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To

1. The Inspector of Police
Nagamalai Pudhukottai Police Station,
Madurai.
2. The Judicial Magistrate No.VI,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Principal
S.Vellaichamy Nadar College,
Nagamalai, Madurai.

Copy to

The Deputy Director of Regional Forensic Science Laboratory,
Madurai Medical College Campus, Collector Office Road,
Madurai.

Order made in
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