



Crl.O.P.No.14765 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.14765 of 2024
and Crl.M.P.No.9026 of 2024

R.Sivanesan

... Petitioner

Vs.

1. R.Venugopal
2. Saravanan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 23.04.2024 made in Crl.R.C.No.33 of 2022 on the file of the learned III Additional Session Judge at Puducherry confirming the order dated 03.10.2022 passed in Cr.M.P.No.2258 of 2022 on the file of the Judicial Magistrate-II, Puducherry and allow the petition.

For Petitioner : Mr.S.Vijayakumar

For Respondents

For R1 : Ms.G.Sumitra

For R2 : Mr.Babu Rengasamy



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ORDER

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This Criminal Original Petition has been filed challenging the order dated 23.04.2024, passed by the learned III Additional Session Judge, Puducherry in Crl.R.C.No.33 of 2022, confirming the order dated 03.10.2022 passed by the learned Judicial Magistrate-II, Puducherry in Cr.M.P.No.2258 of 2022, thereby dismissing the complaint lodged by the petitioner under Section 156(3) of Cr.P.C.

2. Originally the petitioner lodged complaint before the learned Chief Judicial Magistrate, Puducherry and the same was forwarded to the Inspector of Police, CBCID, Puducherry, for enquiry. The Inspector of Police had conducted enquiry and closed the same as “mistake of facts”. Aggrieved by the same, the petitioner filed protest petition under Section 156(3) of Cr.P.C., in Cr.M.P.No.2258 of 2022 and the learned Judicial Magistrate No.II, Puducherry, dismissed the said petition. Challenging the said order, the petitioner filed for revision in Crl.R.C.No.33 of 2022 and the same was also dismissed by the learned III Additional Session Judge, Puducherry. Hence, the petitioner filed the present petition.



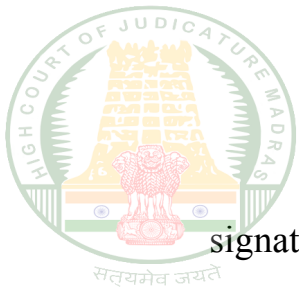
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3. Heard the learned counsel appearing on either side and

perused the materials placed before this Court.

4. It is seen that the petitioner and the first respondent are none other than brothers. The allegations are that the petitioner's signature was forged and a sale deed dated 04.06.1998 was fabricated and was registered vide document No.2139 of 1998 in favour of the first petitioner. Therefore, the petitioner lodged complaint before the learned Chief Judicial Magistrate, Puducherry in Cr.M.P.No.3116 of 2017. The learned Chief Judicial Magistrate, by an order dated 19.09.2018, observed that the Station House Officer ought to have examined the signature found in the sale deed with the admitted signature and also directed to investigate the matter afresh.

5. Further, the petitioner also filed suit challenging the sale deed in O.S.No.99 of 2021 on the file of the learned Principal Sub Judge, Puducherry, for declaration declaring that the sale deed dated 04.06.1998 is null and void and the same is pending. In the mean time, as directed by the learned Chief Judicial Magistrate, Puducherry, the Investigation Officer had sent the sale deed for expert opinion along with the admitted



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signature and it is found that the signatures found in both documents are identical. Therefore, the Investigation Officer closed the complaint.

Aggrieved by the same, the petitioner filed protest petition under Section 156(3) of Cr.P.C., in Cr.M.P.No.2258 of 2022 before the learned Judicial Magistrate-II, Puducherry, and the same was dismissed.

6. That apart, even before taking cognizance, sending of document for expert opinion does not arise. After taking cognizance on the complaint, in order to prove the case of the prosecution or to disbelieve the case of the prosecution, an application can be filed for sending the document for expert opinion. Further no application has been filed by the petitioner for sending the documents for expert opinion and it does not arise before taking cognizance. However, on the report submitted by the investigation officer from the experts opinion, the learned Judicial Magistrate No.II, Puducherry, rejected the complaint lodged by the petitioner. It was also confirmed by the revision Court and this Court finds no infirmity or illegality in the order passed by the Courts below and the present petition is liable to be dismissed.



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7. Accordingly, the Criminal Original Petition stands

dismissed. Further, any of the observations made by this Court will not influence the trial Court viz., the learned Principal Sub Judge, Puducherry, while disposing the suit filed by the petitioner in O.S.No.99 of 2021. Consequently, connected miscellaneous petition is closed.

03.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

To

1. The Principal Sub Judge,
Puducherry.

2. The III Additional Session Judge,
Puducherry.

3. The Judicial Magistrate No.II,
Puducherry.



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G.K.ILANTHIRAIYAN, J.

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