
(2009) 08 MAD CK 0392

In the Madras High Court

Case No : Criminal O.P. No. 24597 of 2007 and M.P. No. 1 of 2007

M. Rajaram

APPELLANT

Vs

Srinivasan and Masilamani

RESPONDENT

Date of Decision : 28-08-2009

Acts Referred:

Citation : (2009) 2 LW(Cri) 1339

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Advocate : Dr. Mr. S. Krishnamurthy, for the Appellant; T.R. Ravi, for the Respondent

Final Decision : Dismissed

Judgement

C.S. Karnan, J.—The above Criminal Original Petition has been filed by the petitioner to set aside the order of the Judicial Magistrate No. I, Ponneri dated 31.01.2007 in C.M.P. No. 3865 of 2006 in C.C. No. 355 of 1996 and direct the Tamil Nadu Finger Print Bureau to examine the Thumb impression in the Sale Deed in question, alleged to have been affixed by the petitioner.

2. The prosecution case is that the complainant, one Rajaram filed the C.C. No. 355 of 1996 against three accused persons stating that his undivided 1/3 share of immovable property has been sold by the accused to and in favour of Subbash Chandran Goel and Sons by way of Sale Deed. The said Sale Deed has been registered as Document No. 438 of 1995 on the file of the Sub-Registrar Office at Ponneri dated 25.09.1995. To prove his case, the complainant/ petitioner has filed C.M.P. No. 3865 of 2006, wherein he had requested that his specimen signature and thumb impression is to be taken for comparison with the signature in the alleged Sale Deed for better appreciation and proper adjudication by sending the same to finger prints experts for examination. Accordingly, the learned Magistrate, Ponneri ordered the same.

3. The Assistant Director, Document Division, Forensic Science Department,

Chennai-4, sent a report to the Learned Magistrate No. I, Ponneri and disclosed the opinion that the comparison of thumb impression is being carried out in the Tamil Nadu Finger Print Bureau and that for any more details about the finger print examination, the Superintendent of Police, Tamil Nadu Finger Print Bureau, Mylapore, Chennai-4 may be contacted separately. Hence, the petitioner/complainant filed a petition for getting the opinion experts in Finger Print Bureau. The learned Judge dismissed the petition in C.M.P. No. 3865 of 2006 on 31.01.2007. Aggrieved by this order, the petitioner has now filed the above Criminal Original petition No. 24597 of 2007 to set aside the order of the learned magistrate.

4. The petitioner pointed out that the Assistant Director and Document Expert had reported on 23.12.2005 that it was not possible to offer any reliable opinion on the signatures marked in the said document. Hence, the petitioner filed a petition before the Learned Magistrate and requested him to send the document for examination and report, to the Tamil Nadu Finger print Bureau for getting Expert opinion as to whether the thumb impression allegedly imputed to him in the Sale Deed was of his or not.

5. Considering the entire contentions of the respective parties and arguments advanced by the learned counsels for their respective parties and the report of the Assistant Director, Forensic Science Department, and order of the learned Magistrate passed in C.M.P. No. 3865 of 2006 in C.C. No. 355 of 1996, the Court is of the view that the Assistant Director's, Forensic Science Department, suggestion is a valid one. If the suggestion of the Assistant Director is followed, no one will be prejudiced and at the same time, after getting an expert opinion from the Tamil Nadu Finger Print Bureau regarding thumb impression then the learned Magistrate can pass orders without any lacuna. So, this Court directs the learned Magistrate to get an opinion from the experts viz. Tamil Nadu Finger Print Bureau and dispose the case within three months from the receipt of the expert opinion.

6. As such, the Criminal Original Petition No. 24597 of 2007 is allowed. Consequently, connected Miscellaneous Petition is closed.