

Manikandan Vs. State of Kerala

Manikandan Vs. State of Kerala

SooperKanoon Citation : sooperkanoon.com/1012813

Court : Kerala

Decided On : Feb-01-2013

Judge : Honourable Mr.Justice T.R.Ramachandran Nair

Appellant : Manikandan

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE T.R.RAMACHANDRAN NAIR FRIDAY, THE 1ST DAY OF FEBRUARY 2013 12TH MAGHA 193 CrI.MC.No. 67 of 2013 ()
----- (CRL.M.P.NO.3417/2012 IN S.C.NO.315/2008 OF
ADDITIONAL SESSIONS COURT-II, PALAKKAD)

PETITIONER/PETITIONER/ACCUSED

NO.1:-

----- MANIKANDAN,
S/O.NANU,PARAYIL HOUSE,KADUKKAMKUNNAM,
MALAMPUZHA,PALAKKAD. BY SRI.P.VIJAYA BHANU,SENIOR ADVOCATE
ADV. SRI.M.REVIKRISHNAN SRI.V.C.SARATH

RESPONDENT/COMPLAINANT:- ----- STATE OF
KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA,ERNAKULAM. BY DIRECTOR GENERAL OF PROSECUTION
SRI.ASIF ALI THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD
ON 01-02-2013, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

sts CRMC.NO.67/2013 APPENDIX PETITIONER'S ANNEXURES: ANNEX A COPY OF THE F.I. STATE MENT ALONG WITH THE FIR IN CRIME NO.107/2007 OF MALAMPUZHA POLICE STATION, PALAKKAD ANNEX B COPY OF THE WOUND CERTIFICATE PERTAINING TO RAVEENDRAN RECORDED AT THE DISTRICT HOSPITAL, PALAKKAD ANNEX C COPY OF THE ACCIDENT REGISTER CUM WOUND CERTIFICATE PERTAINING TO RAVEENDRAN RECORDED AT THE K.G.HOSPITAL, COIMBATORE ANNEX D COPY OF THE ORDER DATED 19 10/2012 IN CRL.M.P.NO.2670/2012 PASSED BY THE COURT OF THE ADDITIONAL SESSIONS JUDGE-II, PALAKKAD ANNEX E COPY OF THE COMMUNICATION ISSUED BY THE DIRECTOR FINGER PRINT BUREAU, THIRUVANANDAPURAM, DATED 22 11/2012 ANNEX F COPY OF THE ORDER DATED 14 12/2012 IN CRL.M.P.NO.3417/2012 IN S.C.NO.315/2008 PASSED BY THE COURT OF THE ADDITIONAL SESSIONS JUDGE-II, PALAKKAD ANNEX G COPY OF THE POST MORTEM CERTIFICATE PERTAINING TO RAVEENDRAN ANNEX H COPY OF THE INQUEST REPORT PERTAINING TO RAVEENDRAN RESPONDENT'S ANNEXURES: NIL /TRUE COPY/ P.A.TO.JUDGE sts T.R.RAMACHANDRAN NAIR, J.

----- CRL.M.C.No. 67 Of 2013
----- DATED THIS THE 1st DAY OF
FEBRUARY, 2013 ORDER The petitioner is the 1st accused in S.C.No.315/08 on the file of the Additional Sessions Court, II, Palakkad. The main prayer in the Crl.M.C.is to quash Annexure F order dated 14.12.2012 in Crl.M.P.No.3417/12 in S.C.No.315/08 .

2. The subject matter of the Crl.M.C. is one concerning an application filed by the petitioner at the stage of defence evidence seeking for comparison of the thumb impressions of deceased Raveendran with FIS and accident cum wound register maintained in the K.G.Hospital, Coimbatore which have been marked as Exhibits P25 and P27 as well as the thumb impressions obtained by the Single Digit Bureau, Palakkad at the time of inquest. The purpose is to ascertain whether the said impressions are of the same hand and person and to find out whether the said impressions were taken before or after the death of the deceased.

3. The application was allowed by the learned Judge by CrI.M.C.No.67/13 -2- Annexure D order. The learned Judge was of the view that since the original documents have been marked in evidence, the same need not be sent to the Expert and various directions were given in the matter. The Public Prosecutor was directed to provide the assistance of a Department Photographer to take photos of the finger print from the said documents in the presence of the Public Prosecutor and the defence counsel and the Senior Superintendent of the Court. It was for sending the same to the Forensic Science Laboratory, Thiruvananthapuram for comparison. They were accordingly forwarded. Thereafter the Director of Finger Print Bureau by Annexure E communication requested the Court to forward the original documents where the disputed specimens are provided for comparing and issuing Finger Print Expert opinion along with the standard requisition in the prescribed form.

4. Annexure F order followed thereafter wherein it was held that the petitioner could have opted for any other agency or experts, who could come to Court to inspect materials, take required photographs of the finger prints available on the documents and effect comparison or otherwise from the Court itself bringing the equipments to the Court. Accordingly, the petition to CrI.M.C.No.67/13 -3- send the original documents was dismissed.

5. The learned Senior Counsel for the petitioner pointed out that unless the comparison as sought for by the petitioner is allowed, the same will cause prejudice to the defence. In the light of the pleas raised, this Court directed the learned Public Prosecutor to get instructions with regard to the various facts pointed out in the CrI.M.C. by an interim order dated 3.1.2013. Both sides were heard on 31.1.2013. The learned Director General of Prosecution who appeared submitted based on the communication from the Director, Finger Print Bureau that arrangements can be made in the Regional Forensic Laboratory at Thrissur.

6. After hearing further, instruction was sought further from the State Director of the Finger Print Bureau, Thiruvananthapuram as to the requirements for examination of the documents and to complete the process. A suggestion was also made by the Director General of Prosecution that if comparison is allowed by

this Court, sufficient safe guards will have to be provided for carrying the documents to the institution concerned, namely, the Finger Print Bureau, Thiruvananthapuram and this Crl.M.C.No.67/13 -4- Court may also direct the presence of a Judicial Magistrate of the First Class from Thiruvananthapuram during the process of examination.

7. Having heard the parties and in the light of Annexure D order passed by the Court, it is only proper that the examination as sought for is provided. The learned Judge was pleased to hold otherwise in Annexure F order in the light of the apprehension that since the documents have been marked in evidence, if it is lost in transit or otherwise, it may prejudice the prosecution case. Of course, the said apprehension is well-founded. Still, in the light of the instruction given to the learned Director General of Prosecution that the equipments required cannot be brought to the Court for examination, the only alternative is to allow the examination thorough the Finger Print Bureau by taking the required documents to the Finger Print Bureau itself.

8. It is also submitted by the Director General of Prosecution that the Director of the Finger Print Bureau has informed that maximum time of one hour alone will be required for the examination of the documents. It is also submitted that the documents can be returned after that and the certificate will be Crl.M.C.No.67/13 - 5- provided within 10 hours thereafter. The learned Director General of Prosecution submitted therefore that the presence of the learned Magistrate may be directed during the time of examination. The learned Senior Counsel for the petitioner also submitted that this Court may issue appropriate direction for enabling the comparison.

9. In the light of the above and in modification of Annexure F order, the following order is passed. (i) There will be a direction to the District Judge, Thiruvananthapuram to provide the service of a Judicial Magistrate of the First Class at Thiruvananthapuram to be present at the time of examination of the documents at the Finger Print Bureau, Thiruvananthapuram. The sealed cover containing the documents will be opened in the presence of the learned Magistrate. (ii) For enabling the examination of the documents, the required

documents Exhibits P25 and P27 (originals of Annexures A and C) as well as the thumb impressions obtained by the Single Digit Bureau, Palakkad at the time inquest will be forwarded to the Finger Print Bureau, Pattom, Thiruvananthapuram in a sealed cover CrI.M.C.No.67/13 -6- and under safe custody. The Court will forward the same by specifically addressing the State Director, Finger Print Bureau, Pattom, Thiruvananthapuram . (iii) The learned Judge will pass appropriate orders for the safe custody of the documents and for transmitting the same to the Finger Print Bureau and for returning them back to the Court. (iv) The photocopies of the documents duly certified under the signature of the learned Judge also will be taken before despatching the documents as directed above and will be kept in the file itself. (v) The District Superintendent of Police will provide sufficient police help for the transmission of the documents and the learned Judge also will provide the service of a Senior Officer of the Court for supervising all the formalities, including taking of the documents to Thiruvananthapuram. (vi) Appropriate steps will be completed within a period of ten days from today, for sending the documents and for completing the formalities as directed above. CrI.M.C.No.67/13 -7- (vii) It is also open to the Court to provide any other suitable conditions required other than those mentioned above. Orders as above will be passed urgently. (viii) The date and hour of examination at the Finger Print Bureau will be informed duly by the Director to the learned District Judge, Thiruvananthapuram for ensuring the presence of a Judicial Magistrate of the First Class, Thiruvananthapuram, as already ordered above. The Registry will forthwith communicate copies of this order to the learned District Judge, Thiruvananthapuram and learned Additional Sessions Judge-II, Palakkad. The CrI.M.C.is disposed of as above. Sd/-(T.R.RAMACHANDRAN NAIR), JUDGE. dsn

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com