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Court : Rajasthan

Decided On : Jul-20-1999

Reported in : 1999(1)WLN663

Judge : M.A.A. Khan, J.

Appeal No. : S.B. Cr. Misc. Petition No. 137 of 1999

Appellant : Chhotulal

Respondent : State of Raj.

Disposition : Petition dismissed

Judgement :

M.A.A. Khan, J.

1. Heard.

2. The applicant was being prosecuted for the offence under Sections 467, 468, 471 and 420/120-B. Before hearing the parties for framing the charge, the applicant moved an application to the effect that the signatures of the deceased Gyarashi on the document, which are alleged to be false, be got compared with his signature on certain documents placed on some other public record. The learned trial Judge dismissed the said application with the observation that at the stage of hearing the parties for framing the charge, no such prayer can be

entertained.

3. The contention of the learned Counsel is that the report of the hand writing expert would be much helpful to the court to form its opinion on the point whether the disputed document was a false one or not. It was, therefore, prayed that a report from the hand writing expert may be called in the present matter.

4. After having heard learned Counsel for the applicant and on going through the material placed before me, I am of the opinion that an accused may certainly have a right even at the stage of hearing the parties on framing of charges to place such document on record which may help the court to form an opinion with regard to his innocence. In that sense of the matter, the accused cannot be denied the right to place such document on the record of the case as are helpful to prove his innocence.

5. However, in the present case, I find that the applicant has prayed that certain record pertaining to the year 1956 and in possession of Registrar, Sangner be called for comparing the signatures/thumb impression of Gyarshi deceased with those documents which were alleged to be false. The prosecution does not appear to have relied upon any kind of report of the hand writing expert in that behalf. As the document i.e. report of hand writing expert was not in possession of either party at the time of hearing the parties for framing charge. the case could not have been stayed or adjourned to enable the accused to procure such a non-existing evidence for his benefit. In that sense of the matter, the impugned order is found quite legal and valid and is hereby upheld.

6. In view of the above, the Misc. petition is dismissed with a direction to the learned trial court to proceed with the case. He may call for such record, at the request of the applicant as is stated to be bearing the signatures of Gyarshi deceased and kept in public custody for the purpose of comparing the signature of such record with those on the disputed document at appropriate stage of the proceedings either during the trial of the case or when the applicant has entered upon his defence and makes such a prayer. In case the applicant considers a report from the handwriting expert to be necessary for his defence and the learned trial judge is also of the opinion that such a report would help the court for just

decision of the case, the applicant may make such a request after the charges, if any, are framed against him. If the applicant makes such a request, the learned trial court shall reconsider his request afresh and pass appropriate orders in that behalf according to law.

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