

In Re: Basrur Venkata Row

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Court : Chennai

Decided On : Dec-29-1911

Reported in : 14Ind.Cas.418

Judge : Sundara Aiyar and ;Spencer, JJ.

Appellant : In Re: Basrur Venkata Row

Judgement :

Sundara Aiyar, J.

1. The appellant, who was the 1st accused in Sessions Case No. 19 of 1910 in the Sessions Court of South Canara, was tried along with two other persons, the appellant for the forgery and the two others for abetment of the forgery of certain documents. These documents were certain income-tax records in the Udipi Taluq office in the office of the Head Assistant Collector of South Canara. The forged documents related to the assessment to income-tax of one Vishnumurti Upidhya for the year 1905--1906. The prosecution alleges that the B. Schedule of income put in by Vishnumurti under the Income Tax Act, the takid issued to the Village Officers of Gundmi to send a report, the takid issued to the Patel of Gundmi to communicate to the assessee the order of confirmation of the tax, the deposition of Vishnumurti before the Village Officers, the deposition of Venkatatrama Bhatta (a witness) before them, the list of the houses prepared by the Shanbhog and the report submitted by him to the Tahsildar, were all re-placed with forged documents

in substitution for the original ones, and that an interpolation was made in the deposition of Vishnumurti before the Head Assistant Collector after the confirmation of the tax. Three of the above documents were selected as the subject-matter of the charges against the accused, namely, the deposition of Vishnumurti before the Tahsildar, Exhibit B, the B. Schedule put in by him, Exhibit T, and the interpolation in his statement before the Head Assistant Collector, Exhibit H, Exhibit HI being the interpolation. These forgeries are alleged to have been made in the interest of one Nagappa Hande. Nagappa was also charged with forgery before the Committing Magistrate but died after his commitment to the Sessions Court. These two persons Nagappa Hande and Vishnumurti financed one Tammaya Urala in 1897 in a partition suit instituted by Tammaya Urala against his undivided co-parceners. Nagappa obtained a mortgage-bond from Tammaya Urala and executed a mortgage himself in favour of Vishnumurti on the 24th March 1898. Nagappa alleged that the mortgage-debt due to Vishnumurti by him was discharged except a small portion. In 1898, Vishnumurti filed a suit in the District Court of South Canara on the mortgage-deed and produced a copy of it. The suit was transferred to the Sub-Court where it was registered as O. S. No. 53 of 1909. According to Vishnumurti and the prosecution case here, Nagappa made no payment whatever towards the mortgage. Nagappa, in support of his plea that the major portion of the debt had been paid off, produced along with his written statement certain correspondence which he alleged passed between him and Vishnumurti in 1898, 1899, 1904, 1905 and 1906, as well as receipts and acknowledgments for payments made by him. Vishnumurti denounced those documents as forgeries. When Vishnumurti was being cross-examined in the Sub-Court as a witness, he was shown certain certified copies of income-tax proceedings relating to him and cross-examined with reference to them. He denounced these also as forgeries. They were not filed in the Sub-Court, though the plaintiff Vishnumurti and the Court called upon Nagappa Hande to produce them. Nagappa applied for copies of these income-tax proceedings in February 1909; these certified copies were the documents used at the cross-examination of Vishnumurti. The first accused is alleged to be the writer of these documents. He is a petition-writer by profession, the 2nd and 3rd accused were respectively an attender of the Head Assistant Collector's office and the record-keeper of the Udipi

Taluq office. They are alleged to have helped Nagappa in obtaining the records of these two offices. The Sessions Judge after a very elaborate inquiry convicted the 1st accused and acquitted the 2nd and 3rd accused. The 1st accused has appealed to this Court from his conviction.

2. Most of the evidence in the case was adduced for proving that the documents in question including those which formed the subjects of the charges against the accused were forgeries. The major portion of the judgment of the learned Sessions Judge is also devoted to the establishment of that proposition. The appellant has not contended before this Court that that finding is wrong. The question we have to decide is whether the prosecution has satisfactorily proved that the appellant was the writer of Exhibits B, Y and H. There is no direct evidence on record that the accused was the forger. The conviction is based on the evidence of Prosecution witness No. 12, Mr. Charles Hardless, Government handwriting expert, who was examined to prove that these documents are in the handwriting of the accused, and on certain other evidence which was relied on in corroboration of the evidence of Prosecution witness No. 12. It will be convenient to examine the corroborative evidence before proceeding to deal with the evidence of the expert.

3. The facts alleged to corroborate the expert evidence are these:

(1) that the accused was on intimate terms with Nagappa and used to write documents for him and others connected with him;

(2) that the accused visited Nagappa in January 1909 when, according to the prosecution, the forgeries must have been committed;

(3) that the accused received a considerable sum of money from Nagappa in 1909 and that the latter raised a loan from one Mahabala Rao, Prosecution witness No. 37, in January 1909, apparently to be paid to the accused; and

(4) that the accused was a man who used to forge documents as shown by Exhibit YYYYYY discovered at a search of his house, a paper containing the signatures of certain persons in the handwriting of the accused.

4. The first fact may be taken to have been proved and is not really controverted in appeal. The second fact, the visit of the accused to Nagappa in January 1909, is spoken to by Prosecution witness No. 13. He says: 'I saw him (that is the accused) in Nagappa Hande's house 4 or 5 years ago about 3 or 4 days before Makarasankramana' (which falls in January). It will be noted that he is unable to fix the year but merely says 4 or 5 years ago', 1909 would be only two years before the trial. He accordingly modified his statement in cross-examination by saying that his seeing the accused at Nagappa Hande's house may have been two years ago. This is insufficient to prove the visit. The Sessions Judge refers to the fact that the accused attested a receipt, dated the 6th Jan 1909, executed by one Manjunatha to his sister, Mukambu, whose daughter, Nilu, was being kept by Nagappa. But this does not show that the accused visited Nagappa in January 1909. Prosecution witness No. 13 also says that he saw the appellant at Nagappa's house 10 or 11 years before he gave evidence, but this statement is of absolutely no value to prove the charges relating to the forgeries in 1909. With regard to the 3rd fact, there is absolutely no evidence that any money was actually received by the accused from Nagappa in 1909. It is alleged that Exhibit ZZZZZ, a note-book discovered at the accused's residence at the search, shows that he spent a sum of Rs. 263 13 6 on the building of a weaving factory from January to September 1909. It is argued that as the accused was merely a petition-writer not making more than Rs. 50 a year, a portion of the loan of Rs. 200 raised by Nagappa from Mahabala Rao must have found its way to the accused. But it is stated by the accused and not denied by the prosecution that the accused raised subscriptions from various persons for helping him in the building. Exhibit XXVI is the subscription list put in by the appellant, and it shows an amount of Rs. 97 obtained from various persons. This document, no doubt, shows that before the list was started, the accused had spent Rs. 200 and wanted a further sum of Rs. 250 to complete the building; but a statement of this sort as to the amount already spent contained in a subscription list should not be taken to be literally true. The accused has also called two witnesses, Defence witnesses Nos. 10 and 12, to prove that he borrowed two sums of Rs. 70 and 30 for the latter of which he executed a pro-note. In any event, the accused cannot be called upon to prove how he got the money required for his building in the absence of any evidence for

the prosecution legitimately leading to the inference that he received any sum from Nagappa. A letter, Exhibit CC1, also alleged to have been found at the search of the accused's house, shows that he asked Nagappa to give him a sum of Rs. 50 in August 1909 but DO evidence has been tendered to show that any portion of that amount was received by him from Nagappa. This letter shows that Nagappa and the appellant were intimate with each other and that the appellant looked to Nagappa as one who would help him in his pecuniary difficulties. On the whole, I am unable to hold it proved that the appellant received any financial help from Nagappa about the time these forgeries were committed.

5. The fourth fact, that the accused was in the habit of committing forgeries, is based on the discovery of Exhibit YYYYYY in his house. This paper, it is said, contains the appellant's imitations of the signature of two persons, Rama Adiga and Krishnabhata. The former denies his signature in Exhibit YYYYYY. The expert, Prosecution witness No. 12, says that the imitation is in the/ appellant's handwriting. Rama Adiga says that there were disputes between him and Krishnabhata and that the accused offered to compromise these disputes. It is not stated that either of them put forward as against the other any document which would be favourable to him in the settlement of the dispute. The question whether Exhibit YYYYYY could be taken to be proved to be in the handwriting of the appellant depends on the evidence of the expert alone, which will be dealt with presently. Beyond this, there is no credible evidence at all that the accused was a habitual or a skilful forger.

6. I may advert here to the appellant's argument that he was not really living in the house where this document was found as well as the documents used by the expert as containing the accused's genuine signatures for comparison with the alleged forged documents. It is contended that the only evidence referred to by the Judge as proving that the accused was living in that house, namely, the testimony of Prosecution witness No. 45, cannot be regarded as legal evidence of the fact. Prosecution witness No. 45 attested the search list, Exhibit VVVVV, and he then stated that the accused was living in the house searched. But he retracted that statement and denied at the trial that the accused lived there and stated that the accused used merely to take his food in the house but was living elsewhere and

that the room where the papers and articles discovered on search were found was under the lock and key of the accused's sister and that the accused himself kept none of his things there. The witness's statement before the Committing Magistrate was not put in at the trial. The Judge was clearly wrong in supposing, as he apparently did, that the witness's statement at the search that the room in which the articles were found were in the possession of the appellant could be taken as evidence of that fact. The testimony of a witness given before the Committing Magistrate may, by the special provisions of Section 288 of the Criminal Procedure Code, be accepted as substantive evidence if he is examined at the trial before the Sessions Court, and may be preferred to the statement made by him at the trial; but a statement made on any other occasion by him cannot be used except to corroborate or contradict the evidence given at the trial. The fact, however, that the accused was living in the house is proved by the evidence of Defence witness No. 8. All that is proved in corroboration of the expert's evidence, therefore, is that the appellant and Nagappa were friends and that the former used to write some documents for the latter or persons connected with him, but the accused being a professional document writer, this fact is of no value to show that the documents in question were forged by him. No correspondence between Nagappa and the accused was discovered at the search of his house incriminating him in any way, no imitations by him of Yishnumurti's handwriting were discovered. The prosecution tried to prove that one Ganappa, one Parama and one Venkappa Karanta entered into a conspiracy to commit the forgeries, but the accused is not said to have formed one of the conspirators. The learned Public Prosecutor relied on the fact that the accused was a person making his living by writing documents, the suggestion being that such a person would readily lend himself to forgery at the instance of his customers. I cannot attach much weight to this argument; it may with equal force be urged that a professional document-writer would be afraid that his handwriting would be well-known to the public and would not undertake to help in forgeries. He would also risk his very means of livelihood if he lent his assistance in such a matter. It cannot be assumed that a man who habitually writes documents for others would be either inclined or able to write in different ways or to imitate the handwriting of others. In my opinion there is absolutely no corroboration of any value against the accused and the question is whether the

conviction can be upheld on the testimony of the expert alone.

7. The expert compared the handwriting in the documents in question with the writing in Exhibits XXXXX, YYYYY, ZZZZZ, CCCCCC and WWWWW, The first question in determining the value of his evidence is whether these documents have been proved to be in the handwriting of the accused. It may be taken as proved, as already stated, that the accused was residing in the house where they were found. The only evidence to prove that they were written by the accused is that given by Prosecution witness No. 44. His evidence is most unsatisfactory. He simply says that these documents are in the handwriting of the appellant; he does not say either in examination-in-chief or in cross-examination how he was acquainted with the appellant's handwriting. A bald statement like the one made by him is not legal evidence of any knowledge of the accused's handwriting. In the course of the re-examination, however, in answer to questions put by the Court, he said:--I came to be acquainted with the 1st accused's writing only by seeing him write documents; I think he has written 10 or 15 documents for me.' He does not say how many years before he gave evidence he saw the appellant write or how long ago the appellant wrote documents for him. There is, perhaps, enough in the statement (just referred to) made by him at the very end of his examination, to make his evidence legally admissible, but it is, to say the least, of the weakest kind. The learned Public Prosecutor drew the attention of the Court to the nature of the documents as probalising the fact that they are in the accused's writing, Exhibit XXXXX is a note-book containing various scientific and technical English words with their corresponding Canarese equivalents. Exhibit ZZZZZ is a note-book containing entries relating to the construction of some building, but there is nothing in it to show what the building is. Exhibit YYYYY, as already stated, consists of imitation signatures of certain persons. Exhibit CCCCCC is a registered document purporting to be written and attested by the accused, but it is not a document purporting to be 30 years old and requires to be proved like any other document. The question whether the standard writings compared by the expert with disputed ones are properly proved is a matter of great importance when it is sought to prove that the disputed writings are in the handwriting of a particular person, and it was the duty of the prosecution to adduce much more satisfactory evidence to show that the documents given to the expert for comparison were in

the handwriting of the appellant.

8. Assuming that these documents are in the hand writing of the appellant, can the evidence given by Mr. Hardless be taken as sufficient in itself to prove that Exhibits B, Y, and HI are in the handwriting of accused? His reason for the conclusion arrived at by him is as follows:--All these writings (i.e., the standard writings given to him for comparison and the disputed writings) are the handiwork of one and the same person. All these writings are of the wrist movement, with the pen-presentation between 45 and 55 degrees of even pen pressure, of regular sizing whether the writings be large or small or wide, of varied direction of linear and oval, sometimes inclining to roundness in style of ascendant alignment, of even spacing and of well formed thumb and finger curves.' Describing the writing of Vishnumurthi, he describes it thus:--Of the superior finger movement, of a pen-presentation of 35 degrees, of an even medium pen pressure, of medium sizing, sloping direction, easy execution, close spacing, ascendant alignment, and of ordinary defined finger and thumb curves.' It will be observed that with regard to pen pressure, sizing, alignment and finger and thumb curves, the witness points to no great difference. The differences, no doubt, are more prominent in some respects; in the one case it is wrist movement, in the other case superior finger movement. There is also appreciable difference in the angle of the pen-presentation and in the direction. But can it be said that the resemblances between the accused's writing and the disputed writings in these few respects are sufficient to prove with reasonable certainty that the latter are in the handwriting of the accused? In cases where a conclusion was based regarding the authorship of a document on a comparison of writing, the expert was generally able to point to marked peculiarities in the ordinary writing of the accused which are re-produced in the forged documents, the accused being unable to avoid them. No peculiarity or mannerism of such sort is spoken to by Mr. Hardless. Daniel Ames in his Work on Forgery observes:--Where a handwriting is brought into question, it is rare that any one thing can determine the point at issue. It is usually by a more or less extended series of things, the presence or absence of which creates the decisive preponderance of evidence' (p. 100). At pages 104 and 105 and in the succeeding pages will be found the manner in which experts in the cases mentioned there were able to bring home to the Court the decided peculiarities which proved the

forgery. The learned Vakil for the appellant also drew our attention to the fact that in this case all the standard writings were put together and the disputed ones also put together separately and the expert was asked to compare the writings of the one group with those of the other. I by no means doubt that Mr. Hardless carried out his comparison with perfect bonafides, but it is unfortunate that the expert knew what the prosecution wished to be proved and that circumstance must, in my opinion, detract to some extent from the weight to be attached to the ex-part's testimony. On reference to KKKKKK, it is found that Mr. Hardless before the Committing Magistrate merely deposed that in his opinion the disputed documents were in the handwriting of the accused; he gave no reasons for his opinion. Again, I accept Mr. Hardless' bona fides as unimpeachable, but the prosecution would have done well to avoid all room for the observation that the witness committed himself at the preliminary inquiry to an opinion given without reasons and then gave reasons for them at the trial before the Sessions Court. He does not say that the handwriting of the accused is in any way peculiar or eccentric, a circumstance which would attach particular weight to evidence of comparison I am unable, by the application of any facts stated in the expert's evidence as to the writings before the Court, to come to the conclusion that Exhibits B, Y and HI are in the handwriting of the accused. In *Lalta Prasad v. King-Emperor* 11 Cri. L.J. 114 : 5 Ind. Cas. 355 : 13 O.C. 1 Pandit Sander Lai, Additional Judicial Commissioner of Oudh, refused to convict the accused on the uncorroborated evidence of the handwriting expert who happened to be the same as in the present case. The learned Judge found that the corroborative evidence in the case was valueless in that there was no marked peculiarity in the handwriting of the accused or anything rare in its style. The learned Judge quotes the following passage from Dr. Lawson's *Work on the Law of Expert and Opinion Evidence*: 'The evidence of the genuineness of the signature based upon the comparison of handwriting and of the opinion of expert is entitled to proper consideration and weight. It must be confessed, however, that it is of the lowest order of evidence or of the most unsatisfactory character. We believe that in this opinion experienced laymen unite with the members of the legal profession. Of all kinds of evidence admitted in a Court, this is the most unsatisfactory. It is so weak and decrepit as scarcely to deserve a place in our system of jurisprudence.' This passage possibly states in too depreciatory terms

the value of expert evidence. I am quite prepared to concede that there may be cases in which the peculiarities in the hand-writing of a person are so numerous and striking and there are so many mannerisms of the forger, that he has been unable to avoid in committing his forgery, that the Court might well come to the safe conclusion on expert evidence alone that the writing is that of a particular person. But no help of this kind is afforded us in this case by Mr. Hardless. Again, this case must be distinguished from those where several independent experts have arrived at the same conclusion by their independent efforts. Pandit Sunder Lal, A.J.C, refers to two judgments of the Allahabad High Court Srikant v. King Emperor 2 A.L.J. 444 : 2 Cri. L.J. 353 and Kalicharan Mukerji v. King-Emperor 6 A.L.J. 184 : 2 Ind. Cas. 154 : 9 Cri. L.J. 498. In the former case, Blair and Knox, JJ., observe, that to base a conviction upon the evidence of an expert in handwriting is, as a general rule, very unsafe'; and in the 2nd case Justices Richards and Griffin approved of the above observation. In the 2nd case, no doubt, there were improbabilities arising from the circumstances of the case in the story for the prosecution, but the observations of the learned Judges with regard to the value of expert evidence are none-the-less valuable. I have no hesitation in the present case in refusing to find the accused guilty on the evidence of Prosecution witness No. 12 alone without substantial corroboration. I would, therefore, reverse the conviction of the accused and direct that he be released from custody.

Spencer, J.

9. I agree with my learned brother in thinking that this is not a case in which a conviction can be supported upon the uncorroborated testimony of the hand-writing expert, and the corroborative evidence available on the record against the 1st accused is of the weakest description, and in fact does little more than create a certain amount of suspicion that he may have had a hand in the forgeries.

10. A number of forged documents are alleged by the prosecution to have come into existence, some in 1900 and some about January 1909.

11. The Sessions Judge finds traces of a conspiracy to assist the deceased Nagappa Hande in the commission of frauds, and four conspirators are named.

None of these four were accused at the trial in the lower Court, no connection has been established between them and the appellant, and nothing has been done to eliminate the possibility that the forgeries, which the appellant is charged with committing, were perpetrated by one of those persons. The hand-writing expert was not so much as asked his opinion as to the authorship of Exhibits JJJ to ZZZ of which Exhibits JJJ to TTT must have been in existence when the written statement RRRRRRi, dated the 16th January 1901, was filed in O.S. No. 45 of 1900.

12. Amid a mass of alleged forgeries, when other persons are alleged to have conspired to forge, the appellant is charged with forging three documents, or parts of documents, one in English and two in Canarese, on the strength of resemblances detected by the expert between these writings and certain so-called genuine writings of the appellant. In paragraphs 26 and 40 of his judgment, the learned Sessions Judge refers to Exhibit XXXXX series, ZZZZZ series and WWWWW series and Exhibit CCCCCC, as being the admitted writings of the 1st accused. In this Court at the hearing of the appeal, all admission of these documents being in appellant's hand-writing is on his behalf repudiated. There is no record of any such admission having been made, by him or by any person authorised by him. Neither in his statement in the Sessions Court nor in his statement in the Committing Magistrate's Court was the 1st accused asked whether any documents were in his writing.

13. Prosecution witness No. 44, who stated in answer to a question put by the Court that he had seen the 1st accused write documents, declared that Exhibit W series and the Canarese portion of Exhibit XXXXX and of Exhibit ZZZZZ and the first page of Exhibit YYYYYY were in his writing, but this witness does not know English and had not seen the 1st accused write English. Prosecution witness No. 45, who was living in the 1st accused's house, stated at the search that the writing on some of the papers found at the search was the 1st accused's but did not clearly specify which those were. At the trial in the Sessions Court he seems to have turned hostile to the prosecution and did not identify any documents to be in the 1st accused's writing. He further stated that the room where they were found was never occupied by the first accused, but he only took his food there with his

sister, the sole occupant. The prosecution is thus left without a satisfactory basis of genuine writings to be used for comparison with what are alleged to be forgeries, and no English writings of the appellant have been proved to be his for the purpose of comparison.

14. Turning now to the circumstantial evidence against the appellant, there are four matters which suggest a certain amount of suspicion as to his conduct. They are (1) that he was seen in Nagappa Hande's house on two occasions engaged in some writing business and was supplied by Nagappa Hande with food for 7 or 8 days on the first occasion; (2) that the appellant was spending money on a weaving establishment at a time when Nagappa Hande is proved to have been borrowing; (3) that a letter, Exhibit CC, addressed to Nagappa Hande by the appellant asking the former to send him Rs. 50 and suggesting that relations of confidence and dependence existed between them was found at the search of the house occupied by the appellant's sister; (4) that the appellant was skilled in imitating handwriting and that experiments in copying signatures were found on a scrap of paper (Exhibit YYYYYY) at the said search.

15. Prosecution witness No. 13, who speaks to the appellant's visits to Nagappa Hande, was considered by the Judge to be a truthful witness. He stated that the second occasion when he saw the appellant in that house was 4 or 5 years ago about 3 or 4 days before Makara Shankaramana (i.e., in January 1906 or 1907). The year given by him does not at all coincide with other evidence as to the time when the documents filed with Exhibit GGG, Nagappa Hande's written statement in Original Suit No. 53 of It 09, put into Court on 20th July 1909, and alleged to be forgeries must have come into existence. In cross-examination for the 2nd accused, however, this witness stated that the last occasion may have been two years ago and not four years ago. His uncertainty about dates deprives the incident of the significance to which it would otherwise be entitled. Moreover, there is nothing inconsistent between this witness' account and a theory that the appellant's visits were for an innocent purpose, for the witness states that no secrecy or desire for concealment was exhibited either by Nagappa Hande or by the appellant when they were surprised in each other's company. The appellant is a petition-writer by profession, and there was nothing unusual in his being

discovered with writing materials around him.

16. As regards the funds for the weaving establishment started by the appellant, Exhibit XXVI is a subscription list which shows that Rs. 97 were collected by public subscription for the purpose. The list shows that besides the sums paid on the spot, other sums were promised. There is no guarantee that all the subscriptions that were given towards this object were entered on the list. The appellant was not asked to explain where he got all the money from. The statements of Prosecution witnesses Nos. 43 and 44 that the appellant earns on an average only Rs. 30 or 40 a year by petition-writing is likely to be an underestimate, seeing that the former admitted that his family paid him Rs. 60 for writing a single partition-deed. Defence witnesses Nos. 10 and 12 prove that he borrowed two sums of Rs. 70 and Rs. 30 for the factory.

17. Exhibit CC is, as the Judge points out, not signed by the appellant. He concludes from the heading that it was his letter, but there is nothing to show that it is a genuine document. Prosecution witness No. 44, the witness who professed to be able to identify the appellant's writings, does not go further than saying that the writing of it looks like the appellant's writing. He was unable to say in whose writing the address to Nagappa Hande on the envelope (Exhibit CC1) was. If it was intended to treat this letter as a circumstance appearing against the 1st accused and to draw inferences from it against him, it would have been a fair and natural procedure for the Judge, in the exercise of the power which he had under Sections 239 and 342, Criminal Procedure Code, to examine the accused about it and put him such questions as would enable him to explain its significance. As it was, he was asked no questions and he made no statement relative to this document. It must, therefore, either be ignored or the fairest construction possible must be put on it, and in doing so, the fact must not be lost sight of that it is dated the 4th August 1909, i. e., six or seven months after the documents alleged to have been forged for the purpose of defending Original Suit No. 53 of 1909, must have come into existence (see the Judge's conclusion in para. 34 of the judgment) and when the sense of obligation arising from the assistance supposed to have been rendered to the defendant in that suit may be considered as likely to have been satisfied.

18. To prove the accused's skill in imitating hand-writing, the prosecution examined Prosecution witness No. 46 and relied on Exhibit YYYYYY, a paper containing signatures found in the accused's sister's house. The Sessions Judge remarked that he had no doubt that the story of this witness that the appellant boasted of his ability at forge handwriting was an entirely false story, and that the witness was, on his own showing, a scoundrel. Exhibit YYYYYY is not proved to be in the appellant's hand-writing except by the statement of Prosecution witness No. 44 as to the first page of it and by the resemblance which the hand-writing expert traces between it and Exhibit XXXXX and WWWW series which have been dealt with above. Also, the appellant was not asked to explain the necessity he had for writing the same person's name a number of times on one piece of paper.

19. There is nothing suspicious in the discovery of documents such as BBBB7 and CCCCC written and attested by the appellant in the house of Nagappa Hande's concubine, when those documents are not suggested to be other than bona fide documents, seeing that the appellant is a writer of documents by profession.

20. Lastly, it is impossible to treat the evidence adduced on the side of the prosecution with the same degree of confidence that might have been accorded to it if the Sessions Judge had not detected palpable signs of concoction in certain parts of it which were designed to serve as links to connect the 2nd and the 3rd accused with the offence. I refer to the Judge's remarks in paras. 37 and 39 of the judgment and to the specious story of Venkataramana Hande, who seems to be largely responsible for the form which the prosecutions has taken, about the mutilation of Exhibit AAAAA in paragraph 36, These are suspicious features of the case.

21. I consider the present case to be one in which it would be dangerous to act on the uncorroborated evidence of the hand-writing expert. The conviction of the 1st accused must be set aside and his release ordered.