

Murli Manohar Arora Vs. State and ors

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Court : Rajasthan Jodhpur

Decided On : Jan-02-2013

Appellant : Murli Manohar Arora

Respondent : State and ors

Judgement :

1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.
ORDER Murli Manohar Arora Versus State of Rajasthan S.B. Criminal Misc.
Petition No. 2389/2012 Date of Order:

2. 1.2013 PRESENT HON'BLE MR. JUSTICE SANDEEP MEHTA Mr. S.D.Vyas,
for the petitioner. Mr. A.R.Nikub, Public Prosecutor for the State. Mr. O.P.Mehta,
for the respondent. BY THE COURT: This criminal miscellaneous petition under
Section 482 Cr.P.C. is directed against the order dated 29-8-2012 passed by the
Additional Dist. Judge(F.T.) No.2, Jodhpur whereby the application filed by the I.O.
for handing over the original Will for getting the same examined by Forensic
Science Laboratory has been rejected. I have heard learned counsel for the
parties. Carefully gone through the impugned order. Learned counsel for the
petitioner has placed reliance on a decision of this Court in Borilal alias Bodi Lal
Vs. State of Rajasthan, 2006 (1) Cr.L.R. (Raj.) 549, wherein this Court, while
considering the provisions of Rule 181 of the General Rules (Civil) 1986, directed
the Civil Court to keep a 2 certified copy of the said document in the file of civil suit
and hand over the original to the Investigation Agency for F.S.L. Examination. The
controversy involved in the instant petition stands squarely covered by the

decision of this Court in Borilal alias Bodilal Vs. State of Rajasthan (supra). In the present case also, the trial Court dismissed the application filed by the I.O. on the ground that according to rule 181 of the General Rules (Civil), 1986 (for short, the Rules of 1986 hereinafter) the civil court was not competent to entertain the prayer. The facts giving rise to the instant miscellaneous petition are that the I.O. P.S. Mahamandir was investigating the F.I.R. No. 382/2011 filed by the petitioner for the offence under Sections 420, 467, 468, 471, 406 and 120-B IPC with the allegations that the original will is required to be examined by the Forensic Science Laboratory which was produced by the plaintiff in Civil Suit No. 80/2011 in the Court of Addl. District Judge(F.T.) No.2, Jodhpur. During investigation of the said F.I.R., in order to ascertain as to whether the signatures/thumb impressions appended on the documents are genuine or not, the I.O. sought to procure the original Will so that it could be examined by the Forensic Science Laboratory. The original document was already filed in the civil suit and therefore the I.O. in accordance with Rule 181 of the General Rules(Civil), 1986 submitted an application for procuring the document in question for the purpose of 3 investigation. The Court below by the order dated 29.11.2008 has rejected the said application and hence the instant miscellaneous petition before this Court. Counsel for the petitioner submits that the controversy involved in the matter is no longer res-integra in view of the decision rendered in Mahant Hari Ram Vs. State of Rajasthan (S.B.Cr.Misc. Petition No. 1204/2007) decided on 3.4.2008. Having regard to the view expressed by this Court in the case of Borilal @ Bodi Lal Vs. State of Rajasthan reported in 2006(1) Cr.L.R. (Raj.)-549 and in the case of Mahant Hari Ram Vs. State of Rajasthan (supra) and keeping in view the fact that in the criminal case instituted by the petitioner, there is a specific allegation that the accused forged the document and then filed the same in the civil court, the original document has to be analyzed by the Handwriting Expert and the comparison of the signature/thumb impressions etc. has to be done by the expert in order to secure the ends of justice and in order to ensure a fair & proper investigation. In these circumstances and in order to secure the ends of justice, this Court is of the opinion that the civil court trying the suit no. 80/2011 has to be directed in accordance with Rule 181 of the Rules of 1986 to hand over the original document to the I.O. P.S.Mahamandir for investigation after retaining a

certified copy thereof on record. Thereafter the I.O. shall send the document to the concerned Forensic Science 4 Laboratory for scientific examination and comparison. The examination shall be conducted expeditiously and thereafter the original document upon being received back from the F.S.L. shall be submitted back to the Civil Court. It goes without saying that the fact that original document has been directed to be handed over to the I.O. for investigation shall not hamper the proceedings of the civil suit because the certified copy has already been directed to be kept on record. Accordingly, the miscellaneous petition is allowed. The order dated 29.8.2012 passed by Addl. Dist. Judge (F.T.) No.2, Jodhpur is quashed. (SANDEEP MEHTA), J.

/Sushil/

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