

# Jayanthilal vs R.Prasad @ Ramichetty Prasad on 13 February, 2025

**Author: P.Velmurugan**

**Bench: P.Velmurugan**

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.2326 of 2024

Jayanthilal

..VS..

1. R.Prasad @ Ramichetty Prasad
2. The State Represented by  
The Inspector of Police,  
Central Crime Branch,  
Vepery, Chennai 7,  
Crime No.84 of 2022.

Criminal Revision Case filed under Section 438 r/w 442  
2023 to

(i) call for the records in CrI.M.P.No.50367 of 2024 in  
C.C.No.2777 of 2023 on the file of the Metropolitan Magistrate for  
Exclusive Trial of CCB Cases (Relating to Cheating Cases In Chennai  
and CBCID Metro Cases, Egmore.

(ii) set aside the order passed by the trial Court in  
CrI.M.P.No.50367 of 2024 in C.C.No.2777 of 2023 dated 06.11.2024 on  
the file of the Metropolitan Magistrate for Exclusive Trial of CCB  
(Relating to Cheating Cases In Chennai) and CBCID Metro Cases,

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Egmore.

For Petitioner : Mr.Suresh Babu

For Respondents :

Mr.B.Mohan for  
Mr.S.Sugendran  
Additional Publ  
for R2

ORDER

The petitioner has filed the present revision petition challenging the order dated 06.11.2024 passed by the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases In Chennai) and CBCID Metro Cases, Egmore in Crl.M.P.No.50367 of 2024 in C.C.No.2777 of 2023.

2. The case of the prosecution is that the de-facto complainant is carrying on jewellery business and is in the practice of engaging agents by entering into service agreement and is selling jewellery to the customers in various places. The first respondent/accused is said to be one of the commission agents appointed by the petitioner-de-facto complainant under a service agreement dated 05.03.2021 for the State of Andhra Pradesh. The allegation against the first respondent-accused is <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) that the petitioner-de-facto complainant had entrusted the jewels weighing 3762.590 grams to the first respondent on 07.01.2022 and the first respondent while receiving the same had also signed in vouchers but the first respondent neither paid the amount nor returned the jewellery to the petitioner and ultimately, the first respondent committed criminal breach of trust and cheating.

3. A complaint was given against the first respondent-accused and an F.I.R. in Crime No.84 of 2022 was registered by the second respondent-Police on 18.05.2022 for offences under Sections 406 and 420 IPC. The first respondent, aggrieved with the allegations made by the petitioner-de-facto complainant in the complaint, particularly, denying the signature found in the service agreement dated 05.03.2021, had moved this Court by filing Crl.O.P.No.18738 of 2022 seeking a direction to the investigating officer to send the disputed documents to the handwriting expert to compare the signature of the first respondent. This Court, vide order dated 10.08.2022 directed the second respondent-Police to take the aid of an handwriting expert and to get an opinion. Ultimately, a final report came to be filed and the same was taken cognizance by the <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases In Chennai) and CBCID Metro Cases, Egmore, Chennai on 24.03.2024 and charges were framed against the first respondent-accused for offences under Sections 406 and 420 IPC.

4. After taking cognizance, the first respondent has once again moved this Court by filing Crl.O.P.No.15577 of 2023 praying for subjecting the service agreement dated 05.03.2021 as well as other vouchers of the de-facto complainant for getting further forensic examination by any other agency other than the Tamil Nadu Forensic Science Department, Chennai. This Court, vide order dated 12.07.2023 disposed of the petition and directed the Court below to seek for expert opinion from the Forensic Science Department, Mylapore, Chennai and such opinion shall be given by any other expert other than Mr.D.Panchatcharam and the proceedings were directed to be kept in abeyance till such opinion. Even after the above directions of this Court, the first

respondent-accused not being satisfied with the further report of the handwriting expert, has filed another petition in Crl.O.P.No.10908 of 2024 praying to send the disputed documents i.e., L.D.8, L.D.10 to <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) L.D.23 for getting forensic hand writing expert's opinion from any Central Forensic Science Department. This Court vide order dated 20.06.2024, directed the trial Court to decide as to whether the materials placed by the prosecution is sufficient to frame charges or need further investigation on the disputed documents by getting an opinion from any other expert or collecting the specimen signature of the accused in any other pattern.

5. Subsequently, in order to protract the case, the first respondent- accused once again filed a petition in Crl.M.P.No.50367 of 2024 under Section 39(1) of Bharatiya Sakshya Adhiniyam, 2023 read with Section 349 of Bharatiya Nagarik Suraksha Sanhita, 2023 before the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases In Chennai) and CBCID Metro Cases, Egmore, in Crl.M.P.No.50367 of 2024 in C.C.No.2777 of 2023 praying to send the documents containing the admitted signatures, sample/specimen signatures collected by the respondent-Police as well as the documents containing disputed signatures namely L.D.8, L.D.10 to L.D.23 for forensic analysis and to compare the signature of the petitioner-accused <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) with the disputed signature found therein to the Central Forensic Laboratory, Hyderabad. The learned Magistrate, after considering the entire materials, partly allowed the petition and directed the first respondent-accused to produce the contemporaneous documents and also directed to subscribe whatever signature needs to be signed for forensic examination and compare the same with that of the disputed signatures. Challenging the said order, the present petition has been filed.

6. Learned counsel for the petitioner submitted that in the earlier occasions, this Court has already given directions for getting expert opinion. As such the alleged documents were sent for getting forensic expert opinion, however, in order to protract the case, the first respondent-accused unnecessarily files petition after petition before this Court as well as before the Court below. He further submitted that the prosecution had already submitted that an attempt to compare the admitted signatures of the accused with that of the disputed documents did not yield any result due to variation in the writing pattern and style. The opinion received from the Forensic Science Department reveals that the signatures of similar pattern alone could be compared, whereas <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) specimen signatures sent are full signatures and the disputed signatures are short signatures and hence the same could not be compared. Hence, the respondent-Police, on receipt of the opinion, has concluded the investigation and filed the final report.

7. Learned counsel for the petitioner further submitted that this Court had already made an observation that there is no use in getting the signatures of the petitioner every time since it is always possible that the petitioner may come up with different signatures. As the safest method that can be adopted for comparison of signature would be to get the admitted signature made during the contemporaneous period of time within a range of two or three years and that was the standard practice that was followed whenever the signature is disputed and it is sent for getting expert opinion. However, the trial Court failed to consider the findings of this Court and once again given

an opportunity to the first respondent to produce the contemporaneous documents containing the admitted signatures to compare the same with alleged documents and sent for getting expert opinion and allowed the petition in Crl.M.P.No.50367 of 2024 in C.C.No.2777 of 2023 dated 06.11.2024, <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) which warrants interference by this Court.

8. Per contra, learned counsel appearing for the first respondent reiterated the averments made in the petition.

9. It is seen from the records that the documents L.D.8, L.D.10 to L.D.23 are disputed as forged documents. This Court in the earlier occasion directed the respondent-Police to send the first respondent's admitted signatures and the disputed list of documents to the Forensic Science Department for getting expert opinion. However, the Forensic Science Department, sent a report stating that signatures of similar pattern alone could be compared, whereas specimen signatures sent are full signatures and disputed signatures are short signatures and hence, the same could not be compared. When the same was brought to the notice of this Court, this Court vide order dated 12.07.2023 directed the first respondent-accused to furnish registered original documents containing the signature/any other reliable documents for the period from 2018 to 2021 and directed the Court below to resend the contemporaneous documents, which contain the admitted signatures of the first respondent <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) along with the disputed documents to the Forensic Department, Chennai and to get opinion from an expert other than Mr.D.Panchatcharam. However, being not satisfied with the report submitted by the Forensic Department, the petitioner once again filed petition before this Court and this Court directed the trial Court to decide whether the material placed by the prosecution is sufficient to frame charges or need further investigation on the disputed documents by getting an opinion or collecting the specimen signatures of the accused in any other pattern. Once again the first respondent-accused filed a petition in Crl.M.P.No.50367 of 2024 for the very same relief. The trial Court allowed the petition and directed the first respondent-accused to produce the contemporaneous documents and also directed to subscribe whatever signature needs to be signed for forensic examination and compare the same with that of the disputed signatures by the Tamil Nadu Forensic Science Department, Mylapore, Chennai other than the previous Forensic Analysis Officer, namely Mr.D.Panchatcharam.

10. The main defence taken by the petitioner-de-facto complainant is that those documents are already examined by the Forensic Analysis <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) Officer, other than the previous Forensic Analysis Officer, namely Mr.D.Panchatcharam, whereas, the learned Additional Public Prosecutor appearing for the second respondent-Police submitted that after passing the order of the Court below dated 06.11.2024, no documents were sent for getting expert opinion by comparing the signatures contained in the disputed documents with the contemporaneous documents.

11. It is needless to state that in the interest of justice, if any signature is disputed and if any party seeks an expert opinion, the Court has to normally direct the prosecution agency to collect the contemporaneous documents which contains the admitted signatures and sent for comparison. In

the present case, the disputed documents have already been sent for getting expert opinion as per the directions of this Court, however, in order to protract the case, the first respondent/accused has filed the petitions after petitions. Admittedly, the signature contained in the documents L.D.8, L.D.10 to L.D.23 are the disputed documents and the same were already sent for getting expert opinion. However, being not satisfied with the opinion, the first respondent filed the petition to re-examine the documents by another officer.

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12. It is settled law that expert opinion is not a conclusive proof and must be evaluated alongside other evidence and the said opinion will aid the Court to render substantial justice. Under these circumstances, this Court does not find any reason to interfere with the order passed by the trial Court and hence, this revision is liable to be dismissed. The second respondent-Police is directed to expedite the proceedings and get opinion from the Forensic Laboratory and comply with the order dated 06.11.2024 passed in Crl.M.P.No.50367 by the learned Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to cheating Cases in Chennai) and CBCID Metro Cases, Egmore, Chennai. The learned Magistrate is directed to expedite the trial and dispose of the case on merits and in accordance with law.

13. With the above observations and directions, this Criminal Revision Petition is dismissed.

13.02.2025 Index: Yes/No Speaking Order/Non Speaking Order Neutral Citation Case : Yes/No ms <https://www.mhc.tn.gov.in/judis> ( Uploaded on: 03/03/2025 01:15:37 pm ) To

1. The Metropolitan Magistrate for Exclusive Trial of CCB Cases (Relating to Cheating Cases In Chennai) and CBCID Metro Cases, Egmore, Chennai.

2. The Inspector of Police, Central Crime Branch, Vepery, Chennai 7.

3. The Public Prosecutor, High Court, Madras.

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