

01.12.2023
Serial no. 360
[G.S.D]

CRR 4455 of 2023

In the matter of : Debashree Chakraborty

... .. Petitioner

Mr. A. Jana
Mr. S. Chakraborty
Mr. Prosenjit Ghosh

... petitioner

Mr. U. Banerjee

... for the O.P.

The petitioner has challenged a document which bears the signature of the petitioner.

Ld. Magistrate has admitted the document in evidence by way of marking the same as 'Exbt. with Objection'. The petitioner took out an application for sending the document to a hand writing expert so that the signature of the petitioner can be verified.

Ld. advocate submits that if the signature of the petitioner is not verified, at this stage, he will suffer prejudice. The said document, according to the petitioner, is a signature on a Photocopy of Aadhar Card.

Ld. advocate submits that under Section 294 Cr.P.C., it was open to the ld. advocate to send the document to a hand writing expert, as the genuinity of the document has been challenged by one of the parties.

Ld. advocate for the petitioner has also relied upon a judgment of the Hon'ble Supreme Court *In re: Criminal Trials Guidelines Regarding Inadequacies and Deficiencies - vs- State of Andhra Pradesh & Ors. reported in [(2021) 10 SCC 598]*".

So far as the issue relating to section 294 is concerned, the section deals with a sub-heading 'Commission for examination of witnesses'. The head note of Section 294 refers to 'no formal proof of certain documents'. The document so tendered had not been verified which are required to be proved in course of evidence.

I have taken into account the judgment relied upon by the petitioner wherein the Hon'ble Apex Court was pleased to lay down the guidelines but the same was not relating to the documents and the stage at which the same are required to be sent to a hand writing expert.

The Id. trial court has expressed its view that the prosecution witness have not even been completed and the application for hand writing expert has been filed by the accused. The Id. trial court has not rejected the application but has observed that ample opportunity is available to the defence to bring into evidence and prove the case at the time of its turn.

The Id. trial court while conducting the trial is required to follow the chronology as has been depicted in

the Evidence Act as well as the Cr.P.C., particularly, in respect of the cases which are to be tried as summons triable case.

There may be circumstance when the court can come to a finding by ignoring a particular document concern. However, the prosecution must be allowed to present its evidence. Until and unless the prosecution evidence is closed, it would be difficult for a court of law to pick and choose the document and send it for a hand writing expert for opinion, which would make the system complex in course of progress of the trial.

The petitioner would have to take a specific defence both at the stage of cross-examination and at the stage of section 313 of cr.p.c. Until and unless that stage is reached, it would be difficult for a court of law to send a changed document to any authority for opinion as that would unnecessarily delay the progress of the trial as has been expressed in the order dated 16.9.2023.

In view of the above, I am of the opinion that the application which has been filed by the petitioner should not be treated to be rejected and be considered at the appropriate stage of the trial as being kept in abeyance by the Id. trial court to be considered at the appropriate stage.

With the aforesaid observations, CRR 4455 of 2023 is disposed of.

Pending application, if any, is also disposed of.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court at Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Tirthankar Ghosh, J.)