2025 INSC 309

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP(Criminal) No(s). 3044 of 2021)

C. KAMALAKKANNAN .....APPELLANT(S)

VERSUS

STATE OF TAMIL NADU
REP. BY INSPECTOR OF
POLICE C.B.C.I.D.,
CHENNAI ....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Leave granted.

2. The appellant herein has preferred the instant appeal by special leave for assailing his conviction in Calendar Case No. 279 of 2011 on the file of the Judicial Magistrate No. 1, Thiruvallur[1] for the offences punishable under Sections 120B, 468 and 471 (2 counts) read with Section 109 of the Indian Penal Code, 1860[2].

3. The trial Court *vide* judgment dated 25th October, 2016, convicted the appellant and the co-accused persons for the aforesaid offences. The accused appellant was sentenced to imprisonment already undergone as an undertrial i.e., from 22nd October, 1996 to 16th November, 1996 along with fine of Rs.1,000/- on the count of Section 120B IPC; fine of

1 Hereinafter, referred to as the 'trial Court'.
2 Hereinafter, referred to as 'IPC'.

Rs.1,000/- on the count of Section 468 IPC and a fine of Rs.2,000/- on the 2 counts of Section 471 IPC. In case of a default, the accused appellant was directed to undergo simple imprisonment for two months.

4. In appeal[3], the Principal Sessions Judge, Thiruvallur[4], *vide* judgment dated 23rd October, 2017 affirmed the judgment passed by the trial Court but reduced the fine amount to Rs.600/- on each count of Sections 120B, 468 and 471 (2 counts) of IPC. In case of a default, the accused appellant was directed to undergo simple imprisonment for two months.

5. The revision petition[5] preferred by the accused appellant also stands rejected by the High Court of Judicature at Madras[6] *vide* judgment dated 16th April,

3 Criminal Appeal No. 47 of 2017.
4 Hereinafter, referred to as the 'appellate Court'.
5 Criminal Revision Case No. 1601 of 2017.
6 Hereinafter, referred to as the 'High Court'.

2019 which is the subject matter of challenge in this appeal by special leave.

6. In brief, the case of the prosecution is that the marksheet produced by one Kumari Amudha while applying for admission in the MBBS course, was found to be fabricated. She had secured only 767 marks out of 1200 marks whereas the document i.e., the marksheet produced by her, for admission to the MBBS course portrayed the marks obtained by her to be 1120 out of 1200 marks. A criminal case[7] came to be registered and after investigation, charge-sheet was filed against the accused appellant and the other co-accused persons for the offences punishable under Sections 120B, 468 and 471 of IPC. As mentioned above, the trial resulted in the conviction of the

7 FIR being Crime No. 2172 of 1996.

accused appellant and the appeal and revision petition preferred by him were also dismissed. Hence this appeal by special leave.

7. Shri S. Nagamuthu, learned senior counsel representing the accused appellant urged that the only allegation of the prosecution against the appellant is that he prepared the postal cover in which the forged marksheet was supposedly transmitted. He urged that the trial Court placed reliance on the deposition of the co-accused for convicting the accused appellant which tantamounts to a gross illegality. He further submitted that the original postal cover was never produced and exhibited by the prosecution during its evidence before the trial Court. Thus, the conclusion drawn by the trial Court that the accused appellant had prepared the postal cover in his handwriting is *ex-facie* illegal as

the said fact was not proved by leading proper evidence. He further contended that the only evidence, based upon which the Courts below have recorded the guilt of the accused appellant is that of the handwriting expert (PW-18). Learned senior counsel urged that the reasoning sheet prepared by the handwriting expert (PW-18) during the course of scientific examination of the disputed documents was not brought on record and proved by the handwriting expert while testifying on oath and thus, the report of the handwriting expert (PW-18) is inadmissible in evidence.

8. Shri S. Nagamuthu further submitted that the trial Court committed a fundamental error while placing implicit reliance upon the report of the handwriting expert (PW-18), the evidentiary value

whereof, has to be proved like any other document because the comparison of handwriting is not a complete/conclusive science. He thus, urged that the accused appellant deserves to be acquitted of the charges by setting aside the impugned judgments.

9. *Per contra*, learned counsel appearing for the State, vehemently and fervently opposed the submissions advanced by the appellant's counsel. He urged that the contention of the appellant's counsel that the trial Court placed reliance on the testimony of Vijaya Kumar (PW-9), being the father of the girl i.e., Kumari Amudha, whose marksheet was forged, is misplaced because the said Vijaya Kumar (PW-9) was initially a listed witness of the prosecution, but after recording his deposition as a witness, the trial Court summoned him to face trial and there is a categoric

finding in the trial Court's judgment that the evidence of Vijaya Kumar (PW-9) is not acceptable. He further submitted that the original postal cover in which the forged marksheet had been forwarded could not be traced out and thus, the prosecution was very much entitled to place reliance on the photostat copy of the said document by treating it to be admissible as secondary evidence.

10. We have given our thoughtful consideration to the submissions advanced at the bar and have gone through the material available on record.

11. At the outset, it may be noted that the highest case of the prosecution as against the accused appellant is that the postal cover in which the forged marksheet was purportedly transmitted, bore his

handwriting. This fact was sought to be proved through the testimony of the handwriting expert (PW-18).

12. The *locus classicus* on this issue is ***Murari Lal v. State of M.P.***[8], wherein this Court laid down the principles with regard to the extent to which reliance can be placed on the evidence of an expert witness and when corroboration of such evidence may be sought. The relevant paragraphs are extracted hereinbelow:-

> **"4.** We will first consider the argument, a stale argument often heard, particularly in Criminal Courts, that the opinion-evidence of a handwriting expert should not be acted upon without substantial corroboration. We shall presently point out how the argument cannot be justified on principle or precedent. We begin with the observation that the expert is no accomplice. There is no justification for condemning his opinion-evidence to the same class of evidence as that of an accomplice and insist upon corroboration. **True, it has occasionally been said**

8 (1980) 1 SCC 704.

on very high authority that it would be hazardous to base a conviction solely on the opinion of a handwriting expert. But, the hazard in accepting the opinion of any expert, handwriting expert or any other kind of expert, is not because experts, in general, are unreliable witnesses — the quality of credibility or incredibility being one which an expert shares with all other witnesses — but because all human judgment is fallible and an expert may go wrong because of some defect of observation, some error of premises or honest mistake of conclusion. The more developed and the more perfect a science, the less the chance of an incorrect opinion and the converse if the science is less developed and imperfect. The science of identification of finger-prints has attained near perfection and the risk of an incorrect opinion is practically non-existent. **On the other hand, the science of identification of handwriting is not nearly so perfect and the risk is, therefore, higher.** But that is a far cry from doubting the opinion of a handwriting expert as an invariable rule and insisting upon substantial corroboration in every case, howsoever the opinion may be backed by the soundest of reasons. It is hardly fair to an expert to view his opinion with an initial suspicion and to treat him as an inferior sort of witness. **His opinion has to be tested by the acceptability of the reasons given by him. An expert deposes and not decides.** [..]

6. Expert testimony is made relevant by Section 45 of the Evidence Act and where the Court has to form an opinion upon a point as to identity of handwriting, the opinion of a person "specially skilled" "in questions as to identity of handwriting" is expressly made a relevant fact..... So, corroboration may not invariably be

insisted upon before acting on the opinion of an handwriting expert and there need be no initial suspicion. But, on the facts of a particular case, a court may require corroboration of a varying degree. There can be no hard and fast rule, but nothing will justify the rejection of the opinion of an expert supported by unchallenged reasons on the sole ground that it is not corroborated. **The approach of a court while dealing with the opinion of a handwriting expert should be to proceed cautiously, probe the reasons for the opinion, consider all other relevant evidence and decide finally to accept or reject it.**

11. We are firmly of the opinion that there is no rule of law, nor any rule of prudence which has crystallized into a rule of law, that opinion-evidence of a handwriting expert must never be acted upon, unless substantially corroborated. But, having due regard to the imperfect nature of the science of identification of handwriting, the approach, as we indicated earlier, should be one of caution. Reasons for the opinion must be carefully probed and examined. All other relevant evidence must be considered. In appropriate cases, corroboration may be sought. In cases where the reasons for the opinion are convincing and there is no reliable evidence throwing a doubt, the uncorroborated testimony of an handwriting expert may be accepted. There cannot be any inflexible rule on a matter which, in the ultimate analysis, is no more than a question of testimonial weight. We have said so much because this is an argument frequently met with in subordinate courts and sentences torn out of context from the judgments of this Court are often flaunted."

(emphasis supplied)

13. The trial Court in the instant case, placed reliance on the testimony of the handwriting expert (PW-18) and the expert report (Exhibit A-31) to conclude that the handwriting on the postal cover was that of C. Kamalakkannan i.e., the second accused (appellant herein). To test the veracity of this finding, we have perused the material available on record and find that the trial Court, in its judgment has noted that the postal cover which allegedly bore the handwriting of C. Kamalakkannan, the second accused (appellant herein) was not available on record and thus, the accused appellant had raised an objection against exhibiting the copy thereof. Consequently, the postal cover could not be exhibited in evidence. As the prosecution failed to lead primary evidence, in form of the original postal cover, the trial

Court could not have concluded that the prosecution had succeeded in proving that the handwriting on the disputed document was that of the accused appellant. Non-exhibiting of the original document would lead to the only possible inference that the questioned document i.e., the postal cover was never proved as per law and as a consequence, the evidentiary value of the handwriting expert's report concluding that the postal cover bore the handwriting of the accused appellant is rendered redundant.

14. Furthermore, on going through the evidence of the handwriting expert (PW-18), as referred to in the trial Court's judgment, we find that the expert witness stated that he received the documents as Exhibit A-2, Exhibit A-14 and Exhibit A-15 and a postal cover. Thus, even the handwriting expert (PW-18) did not

identify the postal cover, which was the subject matter of examination, as being the same which allegedly bore the handwriting of the accused appellant.

15. In wake of the above discussion, we have no hesitation in holding that the prosecution miserably failed to prove the existence of the disputed postal cover in which the forged marksheet was purportedly posted. Since the postal cover itself was not exhibited and proved in evidence, there is no question of accepting the prosecution theory that the same bore the handwriting of the accused appellant. As a result, the conviction of the appellant as recorded by the trial Court and affirmed by the appellate Court as well as the High Court does not stand to scrutiny and the appellant is entitled to a clean acquittal.

16. Resultantly, the appeal is allowed. The impugned judgments, dated 25th October, 2016 passed by the trial Court, dated 23rd October, 2017 passed by the appellate Court and dated 16th April, 2019 passed by the High Court, are hereby quashed and set aside.

17. The appellant is acquitted of the charges.

18. Pending application(s), if any, shall stand disposed of.

.....J.
(VIKRAM NATH)

.....J.
(SANDEEP MEHTA)

NEW DELHI;
MARCH 03, 2025.