

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE K.RAMAKRISHNAN

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

Crl.Rev.Pet.No. 147 of 2015 ()

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AGAINST THE ORDER/JUDGMENT IN CC 12/2011 OF JUDICIAL FIRST CLASS
MAGISTRATE COURT-I, CHANGANACHERRY
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REVISION PETITIONER(S)/ACCUSED:

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RAJAN VARGHESE AGED 67 YEARS
S/O.VARGHESE, PANAKKUMETHATTIL HOUSE
PUTHENKADU BHAGAM, PAKKIL, NATTAKOM
KOTTAYAM.**

BY ADV. SRI.MATHEW KURIAKOSE

RESPONDENT(S)/COMPLAINANT & STATE:

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STATE OF KERALA
(CRIME NO.285/2009 OF CHINGAVANAM POLICE STATION)
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM**

BY ADV.SRI.N.SURESH, PUBLIC PROSECUTOR

**THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 06-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

APPENDIX

REVISION PETITIONER'S EXHIBITS:-

ANNEXURE-A-TRUE COPY OF THE F.I.R ALONG WITH THE COMPLAINT SUBMITTED BY THE ASSISTANT EXECUTIVE ENGINEER, ELECTRICAL SUB DIVISION, PATTOM IN CRIME NO.285/2009 OF CHINGAVANAM POLICE STATION.

ANNEXURE-B- CERTIFIED COPY OF THE REPORT DATED 15.12.2010 SUBMITTED BY THE INVESTIGATING OFFICER IN CRIME NO.285/2009 OF CHINGAVANAM POLICE STATION.

ANNEXURE-C- CERTIFIED COPY OF THE CHARGE SHEET CUM FINAL REPORT IN CRIME NO.285/2009 OF CHINGAVANAM POLICE STATION.

ANNEXURE-D-CERTIFIED COPY OF THE REPORT DATED 08.10.2010 ISSUED BY THE VILLAGE OFFICER, NATTAKAM TO THE INVESTIGATING OFFICER IN CRIME NO.285/2009 OF CHINGAVANAM POLICE STATION.

ANNEXURE-E-CERTIFIED COPY OF THE CERTIFICATE DATED 07.10.2010 ISSUED BY THE SECRETARY OF NATTAKAM GRAMA PANCHAYAT TO THE INVESTIGATING OFFICER IN CRIME NO.285/2009 OF CHINGAVANAM POLICE STATION.

ANNEXURE-F-TRUE COPY OF THE PETITION IN C.M.P.NO.4706/2014 IN C.C.NO.12/2011 ON THE FILES OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT-I, CHANGANASSERRY.

RESPONDENT'S EXHIBITS:-

NIL

R.AV

//TRUE COPY//

PATO JUDGE

Crl.Rev.Pet.No. 147 of 2015 ()

K.RAMAKRISHNAN, J

CRL.R.P.NO.147 OF 2015

Dated this the 6th day of March, 2015

O R D E R

Petitioner/Accused in C.M.P.No.4706/2014 in C.C.No.12/2011 on the file of Judicial First Class Magistrate Court-I, Changanasserry, is the revision petitioner herein.

2. The case was registered on the basis of a complaint given by Assistant Executive Engineer, Electrical Sub Division, Pattom to Circle Inspector of Police, Changanasserry, by Chingavanam police as Crime No.285/2009 alleging offence under section 468, 471, 511 and 420 of Indian Penal Code against the present revision petitioner. After investigation, Annexure-C final report was filed and it was taken on file as CC.No.12/2011 on the file of Judicial First Class Magistrate Court-I, Changanasserry for the offence under section 468, 471, 511 and 420 of Indian Penal Code.

3. When the revision petitioner appeared before the court below, after hearing both sides, court below had framed charge under section 468, 471, 511 and 420 of Indian Penal Code and the same was read over and explained to him and he pleaded not guilty. Thereafter, the case was posted for evidence and summons were issued to CWs 1 to 3. At that time, he filed an application C.M.P.No.4706/2014 under section

239 and 245 of Code of Criminal Procedure for discharge alleging that at the time when charge was framed, he was not aware of the documentary details or other evidence and now he came to understand that the allegations are baseless and there is no possibility of framing charge. So, he filed the present petition. The learned Magistrate by the impugned order dismissed the application, which is being challenged by the petitioner.

4. Considering the scope of enquiry, this court felt that the revision can be disposed of, at the admission stage itself, after hearing the counsel for the revision petitioner and the learned Public Prosecutor.

5. The counsel for the revision petitioner submitted that even on the basis of the allegations there is no offence made out and so the court below ought to have considered that aspect and passed appropriate orders, which has not been done in this case.

6. The application was opposed by the learned Public Prosecutor.

7. It is an admitted fact that on the basis of a complaint given by the Assistant Executive Engineer, Electrical Sub Division, pattom, to the Circle Inspector of Police, Changanasserry, which was forwarded to the Chingavanam

police, Annexure-A crime was registered as Crime No.285/2009 against the revision petitioner under section 468, 471, 511 and 420 of Indian Penal Code. After investigation, Annexure-C final report was filed for the said offences against the revision petitioner before the Judicial First Class Magistrate Court-I, Changanasserry, and it was taken on file as CC.No.12/2011. It is also an admitted fact that the revision petitioner appeared on summons and after hearing both sides, charge was framed for the offence under section 468, 471, 511 and 420 of Indian Penal Code against the present revision petitioner and the same was read over and explained to him and he pleaded not guilty and the court below had decided to proceed with the trial of the case. When summons were issued to the witnesses, namely, CWs 1 to 3 and when they present in court, the revision petitioner filed this petition seeking discharge under section 239 and 245 of the Code of Criminal Procedure.

8. Since the offences alleged under section 468, 471, 511 and 420 of Indian Penal Code, the procedure for trial to be followed is one of warrant trial. Once charge is framed, there is no question of discharge arises, in such cases, and court can only proceed with the case and on the basis of evidence, the accused may either get an order of acquittal if there is no case made out or if there is evidence, then court can only convict

him for the offences, which have been proved against him. There is no provision for further hearing of charge, once the charge is framed after hearing both sides. Further, the only provision where after framing charge or particulars of offence were read over the proceedings can be dropped is Section 258 of the Code of Criminal Procedure, which can be applicable only to summons case and not to warrant trial case. So, under the circumstances, the learned Magistrate was perfectly justified in dismissing the application and there is no illegality committed by the court below in passing the order. Further, court below is expected to go into the allegations in the complaint produced by the prosecution and at this stage court need not go into the question as to whether the allegations are sufficient for conviction. Court need only have a suspicion about the commission of the offence by the accused and if there is a scope for any suspicion, then there is no question of discharge arises. That exercise has been done by the court below after hearing both sides and charge has been framed by the court below in this case and that was read over and explained to the revision petitioner and pleaded not guilty and thereafter it was decided to proceed with the trial. So, under the circumstances, there is no merit in the revision and the same is liable to be dismissed.

In the result, the revision is dismissed. Office is directed to communicate this order to the concerned court immediately.

Sd/-
K.RAMAKRISHNAN, JUDGE

R.AV

//True Copy//

PA to Judge