

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.1099 of 2014

and

M.P.No.1 of 2014

and

M.P.No.2 of 2015

Guru Prasad

....Petitioner/Accused 4

vs

1. The Inspector of Police
Central Crime Branch
Chennai City Police
Chennai.

2. K.Vijayakumar
R2 impleaded as second respondent
as per order of this Court dated
21.04.2015 passed in M.P.No.1 of
2015 in Crl.R.C.No.1099 of 2014 [BRJ] ...Respondents/Complainant

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the order dated 30.07.2014 passed in C.M.P.No.4363 of 2013 in C.C.No.314 of 2012 by the learned Judicial Magistrate No.I, Poonamallee.

For Petitioner : Mr.R.Shankar

For Respondents : Mr.V.Arul
Government Advocate for R1
Mrs.G.Devi for R2

ORDER

This revision is filed as against the order dated 30.07.2014 passed in C.M.P.No.4363 of 2013 in C.C.No.314 of 2012 by the learned Judicial Magistrate No.I, Poonamallee in dismissing the discharge petition.

2. The case of the petitioner in brief is as follows:

According to the petitioner, he was carrying the business in the name and style of M/s.Indo Mech Engineers and used to supply machineries to various industries. During such course, the petitioner supplied machineries to A1 in this case and also issued invoice. According to him, the said invoice was used by A1 for getting bank loan and for that purpose he gave his registration number and service tax particulars to A1. According to him, the relationship between the petitioner and A1 is only that of supplier and customer alone and as soon as he received the money for the machineries supplied, his relationship got over. However, he was wrongly implicated in this case as A4. Hence, he filed a petition for discharging him from the alleged offences under Sections 406, 420 r/w 34 IPC, 465, 466, 468, 471 and 474 of IPC. But the Court below dismissed the same by holding that only after completion of full trial, one could understand whether the offences alleged against the petitioner are proved or disproved. Challenging the said order, the present revision is filed.

3. Learned counsel for the petitioner would submit that the Court below have failed to take into consideration the fact that the relationship between the petitioner and A1 is only that of supplier and customer. He would further submit that the defacto complainant has lodged the complaint after 13 years from the date of alleged occurrence. He would also submit that no prima facie has been proved against the petitioner for implicating him in the alleged offence. Accordingly, he would pray for setting aside the order passed by the Court below.

4. Learned Government Advocate (Criminal Side) would submit that all the accused persons joined together with a common intention to deceive the house property of the defacto complainant has committed the offence. He would further submit that the Court below after considering the materials available before it, dismissed the discharge petition, warranting no interference in this revision.

5. Learned Counsel appearing for the defacto complainant/R2 would submit that the petitioner is the Auditor of the first accused company and thereby induced him to give his house property as security to the bank loan availed by A1 to A3. Accordingly, she would pray for the dismissal of the Criminal Revision Case.

6. Heard all parties concerned and perused the materials available on record.

7. On a careful perusal of the order passed by the Court below, it is seen that the Court below had clearly held that as per the statements given under Section 161 Cr.P.C of the witnesses and

confession statements of the other accused, the petitioner in his capacity as the Auditor of one M/s.Sudharson Industry had induced the defacto complainant to give his house property valued to the tune of Rs.8,88,000/- as security to the bank loan availed by A1 to A3. Though the petitioner states that he is not an Auditor by profession, the Court below has held that the said fact can be proved only after full completion of the trial and not at this stage. Under such circumstances, the Court below has dismissed the discharge petition.

8. In view of the above factual finding given by the Court below after analysing the materials placed before it, without expressing any opinion on the merits of the matter, this Criminal Revision Case is dismissed. However, it is open to the petitioner, who is arrayed as A4 in the matter, to raise all the points raised before this Court at the time of trial.

9. With the above observation, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Poonamallee.

2. The Inspector of Police,
Central Crime Branch,
Chennai City Police,
Chennai.

3. The Public Prosecutor,
Madras.

1 CC to Mr.V.Raghupathi, Advocate SR.No. 48578

CrI.R.C.No.1099 of 2014

KK (CO)
PSI (22.09.2015)