

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.09.2015

Coram

The Honourable Mr. Justice A.SELVAM

Crl. R.C.No.1158 of 2014

P.Muthuvelraj

.. Petitioner/Respondent/Accused

vs.

The Inspector of Police
Central Bureau of Investigation
Delhi Special Police Establishment
Shastri Bhavan, Haddows Road
Chennai 6

.. Respondent/Petitioner/Complainant

Revision under Sections 397 and 401 of Criminal Procedure Code to call for the entire records in Crl.M.P.No.1338 of 2014 in C.C.No.23 of 2012 pending on the file of the Hon'ble XII Additional Special Judge for CBI Cases, City Civil Court, Chennai 104 and set aside the order dated 26.6.2014 passed by the Hon'ble XII Additional Special Judge for CBI Cases, City Civil Court, Chennai 104 and allow the revision petition filed by the petitioner.

For petitioner : Mr.V.S.Venkatesh

For respondent : Mr.K.Srinivasan,
Spl.Public Prosecutor

O R D E R

This Criminal Revision Case has been directed against the order passed in Crl. M.P.No.1338 of 2014 in C.C.No.23 of 2012 by the XII Additional Special Judge for CBI Cases, City Civil Court, Chennai.

2. The respondent, as petitioner, has filed Crl.M.P.No.1338 of 2014 on the file of the Court below under section 216 of the Code of Criminal Procedure, 1973 praying to alter charges by way of including Section 420 of Indian Penal Code. The Court below has allowed the same. Against the order passed by the Court below, present Criminal Revision Case has been filed.

3. The learned counsel appearing for the revision petitioner has contended with great vehemence that as per Section 216 of the Code of Criminal Procedure, 1973, the Court is having power to alter charges and in the instant case, charges have been altered only at the

instance of the petition filed in Crl.M.P.No.1338 of 2014 by the respondent herein. Under the said circumstances, the order passed by the Court below is liable to be set aside.

4. Per contra, the learned Special Public Prosecutor has contended that since sufficient materials are available so as to include Section 420 of Indian Penal Code in the charges, Crl.M.P.No.1338 of 2014 has been filed and the Court below, after considering the availability of sufficient materials so as to include the said section, has rightly allowed the petition and thereby altered the charges and therefore, the order passed by the Court below does not require any interference.

5. The learned counsel appearing for the revision petitioner has drawn the attention of the Court to the decision reported in 2008 Crl.L.J.2845 (Krishnammal vs. The Revenue Divisional Officer and others), wherein, a similar issue has been dealt with and finally this Court has held that the Court alone can frame or alter or add new charges.

6. In the instant case, as pointed out earlier, the Court below has altered the charges only on the basis of the petition filed in Crl.M.P.No.1338 of 2014 by the respondent. The approach made by the Court below is totally erroneous and the same is not permissible under law. Under the said circumstances, the order passed by the Court below is liable to be set aside.

In fine, this Criminal Revision Case is allowed. The order passed in Crl.M.P.No.1338 of 2014 in C.C.No.23 of 2012 dated 26.6.2014 by the court below is set aside and the petition filed in Crl.M.P.No.1338 of 2014 is dismissed. However, the Court below is having power either to alter or add new charges per Section 216 of the Code of Criminal Procedure, 1973.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ajr

To

1. XII Additional Special Judge for CBI Cases, City Civil Court,
Chennai 104

2. The Inspector of Police
Central Bureau of Investigation
Delhi Special Police Establishment
Shastri Bhavan, Haddows Road
Chennai 6

3.The Special Public Prosecutor, (CBI Cases) High Court, Madras.

+2 ccs to Mr.V.S Venkatesh, Advocate, sr.53029
+1 cc to Mr.K.Sinivasan, Advocate, sr.53130

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