

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

CrI.R.C.No.1228 of 2011

A.Maruthachalam

..Petitioner/1st Accused

vs.

State,rep.by

The Inspector of Police,
Vigilance & Anti Corruption,
Coimbatore

(Cr.No.18/2003/AC/CB)

..Respondent/Complainant

Prayer:- Criminal revision case filed under Section 397 and 401 Cr.P.C., to call for the records in Spl.C.M.P.No.516 of 2009 in Spl.C.C.No.14 of 2008, on the file of the Special Judge/Chief Judicial Magistrate, Coimbatore and set aside the order dated 31.05.2011.

For Petitioner :Mr.C.S.Dhanasekaran

For Respondent :Mr.P.Govindarajan,
Addl.Public Prosecutor

ORDER

This criminal revision case has been directed against the order passed in Spl.C.M.P.No.516 of 2009, in Special Calendar Case No.14 of 2008, by the Chief Judicial Magistrate Court, Coimbatore.

2. The revision petitioner and his wife (second accused), as petitioners, have filed Special C.M.P.No.516 of 2009, under Section 239 of the Code of Criminal Procedure, 1973, praying to discharge them from the proceedings of Special Calendar Case No.14 of 2008, wherein, the present respondent has been shown as sole respondent.

3. It is averred in the petition that the petitioners have been arrayed as accused Nos.1 and 2, in Special Calendar Case No.14 of 2008. Further it is averred in the petition that the petitioners have no connection whatsoever with the alleged offences and they have been falsely implicated and in fact, the petitioners are having sufficient source of income.

Under the said circumstances, the present petition has been filed for getting the relief sought therein.

4. The Court below, after considering the rival contentions raised on either side, has allowed Special C.M.P.No.516 of 2009 in part with regard to second petitioner and thereby discharged her and with regard to first petitioner, the petition in question has been dismissed. Against the dismissal order, the present criminal revision case has been filed, at the instance of the first petitioner, as revision petitioner.

5. The learned counsel appearing for the revision petitioner has repeatedly contended that the Court below has framed a combined charge against both the accused and since the Court below has discharged the second petitioner, the charge against the first petitioner has to be segregated in accordance with the allegations made in the final report and the trial Court has not done it and further, the revision petitioner has shown proper income and the same has not been considered by the Court below and thereby, the order passed by the Court below is liable to be set aside.

6. Per contra, the learned Additional Public Prosecutor has contended that in the Special Calendar Case No.14 of 2008, totally four witnesses have been examined and further, the Court below, after considering the contention raised on the side of the revision petitioner/first accused, has rightly rejected his claim. Under the said circumstances, the rejection order passed by the Court below does not call for any interference.

7. As adverted to earlier, the petition in question has been filed under Section 239 of the Code of Criminal Procedure, 1973, praying to discharge the petitioners therein from the proceedings of Special Calendar Case No.14 of 2008. The Court below, after considering the material furnished on the side of the petitioners, has discharged the second petitioner. But the Court below has dismissed the petition as against the first petitioner mainly on the ground that the contention raised on his side is not bona fide.

8. The main grievance expressed on the side of the revision petitioner is that the Court below has framed a combined charge against both the accused and since the second petitioner has already been discharged, the charge framed by the Court below is not proper.

9. As stated earlier, the second petitioner has already been discharged from the proceedings. Under the said circumstances, the charge already framed has to be altered or amended suitably and necessary direction can be given to the Court below.

10. Considering the merits of the present criminal case, the Court below has rightly found that the revision petitioner/first petitioner has not given proper explanation with regard to acquisition of disproportionate wealth and further, in Special Calendar Case No.14 of 2008, four prosecution witnesses have been examined. Under the said circumstances, it is not conducive nor feasible to allow the present criminal revision case and therefore the present criminal revision case deserves to be dismissed.

In fine, this criminal revision case is dismissed. The order passed in Special C.M.P.No.516 of 2009, by the Court below is confirmed. The Court below is strictly directed to the effect that if any combined charge is framed before discharging the second accused, with regard to allegations made against the revision petitioner/first accused, charge may be suitably altered or amended and proceed with the trial.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Inspector of Police,
Vigilance & Anti Corruption,
Coimbatore

2.The Special Judge/Chief Judicial Magistrate,
Coimbatore

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.S. Dhanasekaran, Advocate, S.R.No.62281

+1cc to the Public Prosecutor, S.R.No.62865

SK(CO)
EU(27/11/2015)

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