

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.Nos.1101 to 1103 of 2015

&

M.P.Nos.1,1 and 1 of 2015

Ganesan

.. Petitioner/Accused

vs.

State Rep. By
The Inspector of Police
Railway Police Station
Coimbatore

Cr.No.1755/2011, 1176/2011 & 392/2012)

.. Respondent/Complainant

Crl.R.C.No.1101 of 2015: Criminal Revision filed under section 397 and 401 Cr.P.C.to set aside the order passed by the Judicial Magistrate VI, Coimbatore dated 09.02.2015 in C.M.P.No.569 of 2013 in C.C.No.675 of 2012.

Crl.R.C.No.1102 of 2015: Criminal Revision filed under section 397 and 401 Cr.P.C.to set aside the order passed by the Judicial Magistrate VI, Coimbatore dated 09.02.2015 in C.M.P.No.584 of 2013 in C.C.No.674 of 2012.

Crl.R.C.No.1103 of 2015: Criminal Revision filed under section 397 and 401 Cr.P.C.to set aside the order passed by the Judicial Magistrate VI, Coimbatore dated 09.02.2015 in C.M.P.No.585 of 2013 in C.C.No.673 of 2012.

For Petitioner : Mr.R.Sasikumar

For Respondents: Mr.C.Iyyapparaj
Govt. Advocate (Crl.side)

O R D E R

These revisions arise against dismissal of discharge petitions in C.M.P.Nos.569 of 2013, C.M.P.Nos.584 of 2013 and C.M.P.Nos.585 of 2013 in C.C.Nos.675 of 2012, C.C.Nos.674 of 2012 and C.C.Nos.673 of 2012 by the Judicial Magistrate VI, Coimbatore under orders dated 09.02.2015.

2. All three petitions arise out of cases relating to offence of theft committed at the Coimbatore Railway Station. The petitioner sought discharge contending that he stood wrongly arrayed as an accused. Admittedly, the petitioner, whose name is Ganesan, is the son of Mariappan. However, in the charge sheet, the name of the accused has been informed to be Ganesan, S/o. Ramasamy. The petitioner has contended that he is not the actual accused involved in the offence. Against the dismissal of such petitions, the petitioner has moved the present revisions.

3. Heard learned counsel for petitioner and learned Government Advocate (Crl.side).

4. Learned Government Advocate (Crl.side) submits that though the petitioner is the actual accused, by oversight, the name of the father of the petitioner has been shown as Ramasamy in the entire records of investigation culminating with the final report.

5. It is not in dispute that the name of the father of the present petitioner/accused is Mariappan. This Court is of the view that where serious doubt arises as to the person involved in the commission of offence and the entire prosecution records inform the name of the father of the accused to be one other than the petitioner/accused put up for trial, these revisions would have to succeed. The prosecution, having informed the father of the accused to be one of Ramasamy, cannot be permitted to prove that the son of Mariappan, i.e., the petitioner is the real accused. It is for the prosecution to prove its case and when the records of its case do not, on the face of it, disclose any allegation of offence against the petitioner, the petitioner ought to be discharged.

These Criminal Revisions stand allowed and the order passed by the learned Judicial Magistrate VI, Coimbatore in C.M.P.Nos.569 of 2013, C.M.P.Nos.584 of 2013 and C.M.P.Nos.585 of 2013 dated 09.02.2015, shall stand set aside. The petitioner shall stand discharged in the said cases. Consequently, connected miscellaneous petitions are closed.

Sd/
ASSISTANT REGISTRAR()

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

gpa

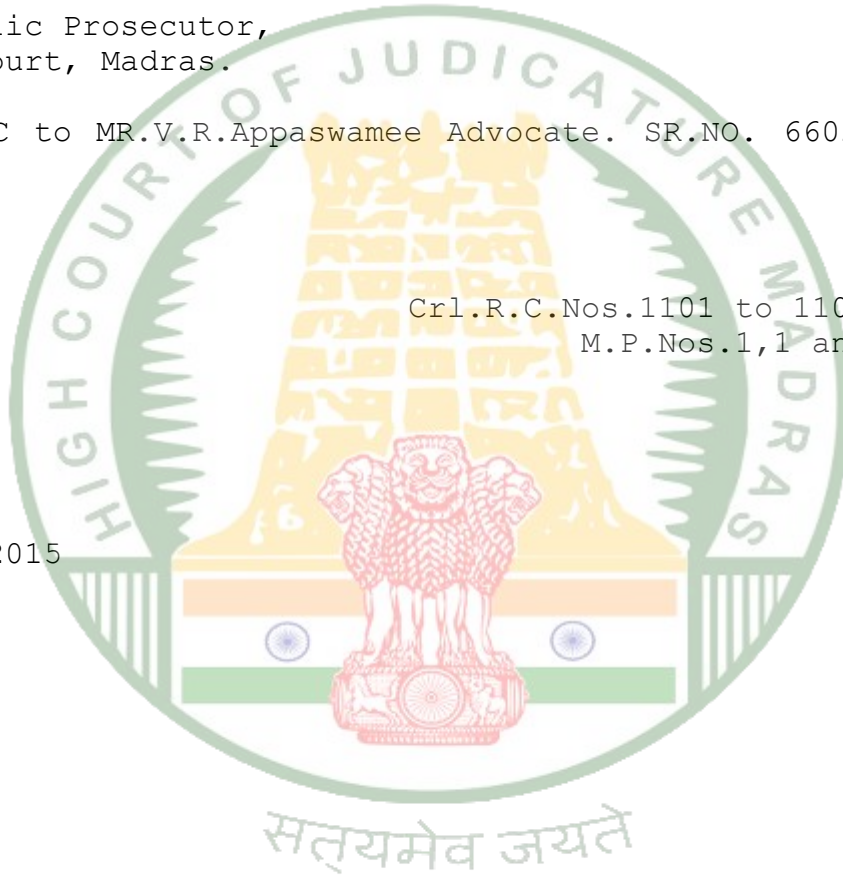
To

1. Judicial Magistrate VI, Coimbatore
2. Do thro' The Chief Judicial Magistrate,
Coimbatore
3. The Inspector of Police
Railway Police Station
Coimbatore
4. The Public Prosecutor,
High Court, Madras.

+3 CC to MR.V.R.Appaswamee Advocate. SR.NO. 66029, 66030 &
66031

Crl.R.C.Nos.1101 to 1103 of 2015 &
M.P.Nos.1,1 and 1 of 2015

CO-SV
JD 11/12/2015



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