

IN THE HIGH COURT OF JUDICATURE AT MADRAS

23.4.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Petition No. 354 of 2015
and
MP.Nos.1 and 2 of 2015

1. Augustin Victor
2. P.K.Devaraj
3. A.Venkatesan

... Petitioners/Accused

Versus

State rep.by
Inspector of Police
B1 North Beach Police Station
Chennai -600 001

... Respondent/Complainant

Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C. to set aside the order dated 13.3.2015 passed by the learned VII Metropolitan Magistrate Court at George Town, Chennai in C.C. No.2402 of 2014.

For Petitioner : Mr.R.Dhanapal Raj

For Respondent : Mr.R.Prathap Kumar
Government Advocate(Crl. Side)

ORDER

The revision petitioners, who have been arrayed as accused Nos. 1 to 3 in C.C.No.2402 of 2014 on the file of the VII Metropolitan Magistrate Court, George Town, Chennai for the offence under Section 408,420 and 120 - B read with Section 34 of IPC, have come up with the above revision petition to set aside the order dated 13.3.2015 .

2. From the materials placed on record, it appears that during Cross examination of PW1, prosecution filed a petition under Section 242 (2) of Cr.P.C. seeking permission to file the additional documents, on the prosecution side.

3. Counter affidavit has been filed by the accused/ respondents therein opposing the prayer on the ground that investigation agency

has not mentioned the above said documents on the earlier occasion and none of the witnesses sought to be examined to speak about the additional 29 documents sought to be marked. The accused/respondents in C.C.No.2402 of 2014 also contended that the attempt to mark the documents was nothing but to fill up the lacuna in the prosecution case.

4. After hearing the submission made by both sides, the learned VII Metropolitan Magistrate, George Town, Chennai, by order dated, 13.3.2015 allowed the petition.

5. Today, when the Criminal Revision case is taken up for hearing, the learned Government Advocate brought to the notice of this Court that in respect of the very same order dated 13.3.2015 passed by the learned VII Metropolitan Magistrate, George Town, Chennai, allowing the petition filed by the prosecution under Section 242 (2) of Cr.P.C., the fourth accused has preferred a Criminal Revision Case in Crl.RC.No.246 of 2015 and the same was dismissed by this Court on 24.3.2015 on merits, after hearing both sides. Therefore, there cannot be another revision against the very same order, which has already been decided by this Court.

6. Heard the learned counsel for the revision petitioners/accused as well as the learned Government Advocate.

7. As rightly pointed out by the learned Government Advocate, once the order is challenged by any one of the accused and the same has been confirmed by this Court in revision on merits, it is not open to the other accused to file another revision against the very same order stating that they have got independent right. Therefore, I am of the view that the revision is not maintainable.

8. When this Court expresses the above opinion, learned counsel for the revision petitioners pointed out that the right of the revision petitioners / accused to cross examine the witnesses and to raise their objections with regard to the additional documents to be filed by the prosecution as defence may be safeguarded.

9. Admittedly, the revision petitioners / accused have got every right to cross examine the witnesses even in respect of the production of the alleged photocopies by questioning the non production of the original documents. This Court, in the earlier Revision filed by the fourth accused, has also categorically observed as follows:

9. On the contention of the learned counsel for the petitioner that the documents attempted to be marked are not the part of the investigation and filing of final report, before examining the witnesses, the Court is bound to furnish the copies of the same and in such circumstances, the petitioner has

got an opportunity to cross-examine the witnesses, in which event, no serious prejudice would be caused to the petitioner. If examination of witnesses and marking of documents is vital to prosecution, it cannot be shut down.

10. In view of the above, this Criminal Revision is dismissed. It is needless to say that the revision petitioners/accused are at liberty to cross-examine the witnesses and to raise their objections with regard to the additional documents to be filed by the prosecution. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector of Police
B1 North Beach Police Station
Chennai -600 001
- 2.The VII Metropolitan Magistrate,
George Town, Chennai
- 3.The Chief Metropolitan Magistrate,
Egmore, Chennai - 9.

JP(CO)
CA(28/05/2015)

Cr1 RC No. 354 of 2015

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