

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM

Crl.R.C.No.599 of 2015
and
M.P.No.1 of 2015

N.Ramesh

... Petitioner

Vs

State of Tamil Nadu rep. by
Inspector of Police,
Vigilance & Anti Corruption,
Vellore.

... Respondent

Prayer:- Criminal Revision Case filed against dismissing the petition filed to set aside the order passed in Crl.M.P.No.1761 of 2011 in Special Case No.2 of 2010 on the file of the learned Special Judge/CJM, Vellore dated 07.04.2015.

For Petitioner : Ms.M.Srividhya

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

ORDER

This Criminal Revision Case has been directed against the order passed in Crl.M.P.No.1761 of 2011 in Special Case No.2 of 2010 by the Special Judge/Chief Judicial Magistrate, Vellore.

2. The Revision Petitioner as petitioner has filed Crl.M.P.No.1761 of 2011 in Special Case No.2 of 2010 under Section 239 of the Code of Criminal Procedure, 1973, praying to discharge him from the proceedings of Special Case No.2 of 2010.

3. It is averred in the petition that the petitioner has been arrayed as 2nd accused in Special Case No.2 of 2010. The petitioner has served as Sweeper and he is no connection whatsoever with the 1st accused. The petitioner has unnecessarily been roped in, in Special Case No.2 of 2010. Since the petitioner has had no

connection whatsoever with the alleged offences, the present petition has been filed for getting the relief sought for therein.

4. In the counter filed on the side of the 2nd respondent, it is averred that during the relevant period, the petitioner has served as a Sweeper and also under the control of the 1st accused. The 1st accused has directed the 2nd accused to receive a sum of Rs.10,000/- from the defacto complainant and accordingly, the defacto complainant has given a complaint and consequently, a trap has been conducted wherein money has been given to the petitioner. Therefore, it is false to allege that the petitioner has had no connection whatsoever with the alleged offences and under the said circumstances, the present petition deserves to be dismissed.

5. On the basis of the rival contentions put forth on either side, the court below has dismissed the petition by way of holding that sufficient materials are available so as to proceed further against the petitioner.

6. The learned Counsel appearing for the revision petitioner has contended that the petitioner has served as a sweeper and he simply carried out the direction given by the 1st accused and therefore, he cannot be mulcted with liability. But the respondent, without considering the role alleged to have been played by the petitioner, has erroneously roped him in Special Case No.2 of 2010. Under the said circumstances, the present petition has been filed for getting the relief sought for therein and the court below, without considering the nature of service done by the petitioner and also the role alleged to have been played by him, has erroneously dismissed the petition. Therefore, the order passed by the court below is liable to be set aside.

7. The learned Additional Public Prosecutor appearing for the respondent has contended that only as per the direction given by the 1st accused, the 2nd accused/petitioner has received a sum of Rs.10,000/- as bribe. Under the said circumstances, he has also been arrayed as one of the accused in Special Case No.2 of 2010 and the court below, after considering the involvement of the petitioner/2nd accused in the alleged crime, has rightly dismissed the petition and therefore, the dismissal order passed by the court below does not require any interference.

8. It is an admitted fact that the present petitioner has been shown as 2nd Accused in Special Case No.2 of 2010. It is also an equal admitted fact that during the relevant period, he served as a sweeper under the control of the 1st accused.

9. The main contention put forth on the side of the respondent is that as per the direction given by the 1st accused, the petitioner/2nd accused has received a sum of Rs.10,000/- as bribe from the defacto complainant. Since the petitioner has received a sum of Rs.10,000/- by way of bribe from the defacto complainant and that too, on the basis of the direction given by the 1st accused, the court cannot come to a conclusion that the petitioner has not committed any offence and further for proving his innocence, he has to face trial in Special Case No.2 of 2010.

10. The court below, after considering the rival contentions put forth on either side and after considering the available materials on records to proceed against the petitioner, has rightly dismissed the petition.

11. In view of the discussion made above, this Court has not found any force in the contention of the learned Counsel appearing for the revision petitioner. Therefore, this Criminal Revision deserves to be dismissed.

In fine, this Criminal Revision Case is dismissed. The order passed in CrI.M.P.No.1761 of 2011 in Special Case No.2 of 2010 by the Special Judge/Chief Judicial Magistrate, Vellore is confirmed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

tsi

Sub Assistant Registrar

To

1. The Special Judge/Chief Judicial Magistrate,
Vellore.
2. Inspector of Police,
Vigilance & Anti Corruption,
Vellore.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Srividhya, Advocate, S.R.No.42315

CrI.R.C. No.599 of 2015

GJ(CO)
CA(03/09/2015)