

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2015

CORAM:

THE HONOURABLE MR. JUSTICE C.T. SELVAM

Crl.R.C.No.719 of 2015
and M.P.No.1 of 2015

K.M.Basheer

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By the Inspector of Police,
N3 - Muthiyalpet Police Station,
Chennai.

2.G.Padmavathi

[The 2nd respondent impleaded as per the
order of this Court dated 24.07.2015 in
M.P.No.3 of 2015 in Crl.R.C.719/2015]

... Respondents

Criminal Revision Petition filed under Section 397 r/w 401
Cr.P.C., against the order passed in M.P.No.571 of 2015 in
C.C.No.158 of 2015 on the file of XVI Metropolitan Magistrate,
George Town, Chennai dated 06.07.2015.

For Petitioner : Mr.C.K.M.Appaji

For Respondents: Mr.C.Iyyapparaj,
Govt. Advocate (Crl. Side) [R1]
Mr.B.Vivekanandan
for Mr.A.Subramanian for R2

O R D E R

This revision arises against the order of learned XVI
Metropolitan Magistrate, George Town, Chennai, passed in
M.P.No.571 of 2015 in C.C.No.158 of 2015, on 06.07.2015.

2. The present is a case which exhibits that at times doing
good does the do gooder no good.

3. Petitioner/second accused faces trial for offence under
Sections 420, 406 and 506(ii) IPC in C.C.No.158 of 2015 on the
file of learned XVI Metropolitan, George Town, Chennai.

Petitioner sought discharge in M.P.No.571 of 2015 and upon dismissal thereof under orders dated 06.07.2015, the petitioner has moved the present revision.

4. Learned counsel for petitioner refers to the typed set of papers and submits that originally, the second respondent/defacto-complainant had preferred a complaint informing that the first accused, a lady, by name Kalpana had conducted chit business, had induced the complainant and her family members to partake therein and thereby complainant had been swindled of a sum of Rs.10 Lakhs. The second respondent/defacto-complainant preferred a complaint to the first respondent on 30.09.2013. On having no action thereupon, the second respondent moved Crl.O.P.No.27777 of 2013 before this Court, wherein, under orders dated 30.10.2013, this Court required the first respondent to enquire the complaint and if there be a cognizable offence, proceed further in accordance with law. Learned counsel submits that neither in the original complaint nor in Crl.O.P.No.27777 of 2013, the second respondent had informed the involvement of this petitioner.

5. Learned counsel submits that pursuant to the order of this Court, the first accused was called for interrogation on 23.01.2014 and since on such date, the first accused was an employee of this petitioner, he, towards saving her from harassment and on her behalf, effected payment of a sum of Rs.1 lakh to the second respondent. The travails of the petitioner started then. As against the direction of this Court requiring the first respondent to proceed in accordance with law if cognizable offence be made out, the first respondent had taken a further complaint at the hands of the second respondent, wherein this petitioner stands implicated alleging that he is the partner of the first accused Kalpana. Allegations of the said Kalpana along with this petitioner having issued threats to the second respondent have also been made.

6. Learned counsel for second respondent submitted that this petitioner is the kingpin behind a racket and the Court below, on finding that sufficient materials were available to bring charges against the petitioner, dismissed the petition seeking discharge and hence, this Court ought not to interfere.

7. In the circumstances narrated, this Court does not think it necessary to call for proof that the first accused Kalpana was employed with the petitioner. In the original complaint and in the earlier petition before this Court, no allegations have been made against the petitioner. There are two sets of 161(3) Cr.P.C. statements. In the original 161(3) Cr.P.C. statement, the petitioner's role stands not mentioned. Clearly the intent of the second respondent in implicating this petitioner is to have the benefit of his means. It is unfortunate that against a

direction of this Court requiring of a particular course of action by the first respondent, such respondent chooses to obtain a further complaint implicating this petitioner and to proceed thereupon. What are the considerations may we ask?

This Criminal Revision stands allowed. The order of learned XVI Metropolitan Magistrate, George Town, Chennai, passed in M.P.No.571 of 2015 in C.C.No.158 of 2015, on 06.07.2015, stands set aside. Petitioner is discharged of all charges. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1.The XVI Metropolitan Magistrate,
George Town, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.C.K.M.Appaji, Advocate, sr.69229

+1 cc to Mr.Vivekavan, Advocate, sr.69379

Cr1.R.C.No.719 of 2015

msm co
kra 04.02.2016

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