

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 4.8.2015.

CORAM

THE HON'BLE MR.JUSTICE A.SELVAM

Criminal Revision Case No.793 of 2015

A.Ramasamy

... Petitioner

vs.

Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Salem.

... Respondent

Criminal Revision Case under Section 397 read with 401 Cr.P.C against the order dated 23.4.2015 made in CrI.M.P.No.636 of 2013 in Special C.C.No.22 of 2012 on the file of the The Special Judge/Chief Judicial Magistrate, Namakkal.

For petitioner : Mr.K.Sasindran

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

ORDER

This criminal revision case has been directed against the order dated 24th April 2015 passed in CrI.M.P.No.636 of 2013 in Special Calendar Case No.22 of 2012 by the Chief Judicial Magistrate (Special Judge), Namakkal.

2. The revision petitioner, as petitioner, has filed the petition in question under section 239 of the Code of Criminal Procedure, 1973 praying to discharge him from the proceedings of the Special Calendar Case No.22 of 2012, which is pending on the file of the court below.

3. The court below, after considering the contentions putforth on either side, has dismissed the petition. Against the order of dismissal, the present revision case has been filed at the instance of the petitioner as revision petitioner.

4. The learned counsel appearing for the revision petitioner has contended with great vehemence that on 1.6.2011 itself, the revision petitioner, being Commercial Tax Officer, Thiruchengode, has given notice of demand to the de facto complainant and only to wreak vengeance against the revision petitioner, on 26.7.2011, the de facto complainant has given a false complaint and in fact, the revision petitioner has had no connection whatsoever with the alleged offences. 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 averments putforth in the petition, has erroneously dismissed the same and therefore, the dismissal order passed by the court below is liable to be set aside and the petition in question is liable to be allowed.

5. In order to remonstrate the contentions putforth on the side of the revision petitioner, the learned Additional Public Prosecutor has contended that the revision petitioner, being Commercial Tax Officer, with regard to issuance of 'C' form to the de facto complainant, has initially demanded Rs.15,000/- by way of bribe and subsequently reduced to Rs.10,000/- and consequently, the de facto complainant has given the complaint on 26.7.2011 to the respondent and necessary arrangements have been made and accordingly, a trap has been conducted and the revision petitioner has been arrested and the court below, after considering the nature of case putforth on the side of the prosecution, has rightly dismissed the present petition and therefore, the dismissal order passed by the court below does not call for any interference.

6. The specific case putforth on the side of the respondent is that with regard to issuance of 'C' form to the de facto complainant, the revision petitioner has, initially, demanded Rs.15,000/- from him by way of bribe and subsequently, reduced to Rs.10,000/- and the de facto complainant has agreed to pay the same and on 26.7.2011, a complaint has been given to the respondent herein and accordingly, a trap has been conducted and subsequently, the revision petitioner has been arrested.

7. The defence putforth on the side of the revision petitioner is that even prior to 26.7.2011, some notices of demand have been issued on 1.6.2011 to the de facto complainant and only for the purpose of taking vengeance, a false complaint has been given against the revision petitioner.

8. In fact, on the side of the revision petitioner, certain demand notices dated 1.6.2011 have been filed and the same can be

looked into only at the time of trial. Without adducing proper evidence, the court cannot automatically come to a conclusion to the effect that only after giving those notices, for the purpose of taking vengeance against the revision petitioner, the complaint in question dated 26.7.2011 has been lodged.

9. As stated earlier, for the purpose of deciding the defence put forth on the side of the revision petitioner, some oral as well as documentary evidence are required and at this stage, by way of believing the defence put forth on the side of the revision petitioner, he cannot be discharged from the proceedings initiated in Special Calendar Case No.22 of 2012. Further, it is seen from the records, in Special Calendar Case No.22 of 2012, necessary charges have been framed against the revision petitioner/accused. Under the said circumstances, the order of dismissal passed by the court below is perfectly correct and the same need not be set aside.

10. In fine, this criminal revision case is dismissed. However, the Special Judge/Chief Judicial Magistrate, Namakkal is directed to dispose of the Special Calendar Case No.22 of 2012 before the end of December 2015 and both the parties are directed to lend their support to the court for disposing of the case as directed earlier.

Sd/-
Assistant Registrar(J)

//True Copy//

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To

Sub Assistant Registrar

1. The Special Judge / Chief Judicial Magistrate,
Namakkal.
2. Deputy Superintendent of Police,
Vigilance and Anti-Corruption, Salem.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Sasindran, Advocate, S.R.No.40480

CrI.R.C.No.793 of 2015

CA(CO)
CA(19/08/2015)