IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-06-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 844 of 2009

T.N.S.Jayaraj
S/o.Swamidass
Proprietor
Srikrishna Service Station
No.122, Arcot Road
Kodambakkam
Chennai-600 024. ...Petitioners

Versus

1. State by Inspector of Police
   Central Crime Branch
   Egmore
   Chennai-600 008.

2. S.N.Venkatakrishnan ...Respondents

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the order dated 09.07.2009 passed in Crl.M.P. No. 8676 of 2008 in C.C.No.38 of 2008 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : Mr.V.Balu

For Respondents : Mr.V.Arul
Government Advocate (Crl.Side)
for R.1

ORDER

This Criminal Revision Case is filed by the petitioner/defacto complainant against the order dated 09.07.2009 passed in Crl.M.P. No. 8676 of 2008 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai, which is a protest petition seeking further investigation of the matter under Section 173(8) Cr.P.C.

2. The petitioner/defacto complainant is running a petrol bunk at Kodambakkam, Chennai and selling petroleum products. The petitioner has appointed one Gopal, as a Manager of the Petrol Bunk from 1996. The petitioner came to know that the said Gopal has misappropriated a sum of Rs.55,00,000/-, in which, the Bank Manager

has sanctioned Rs.28,00,000/- over due and the Manager has forged the signature of the petitioner in all documents and obtained O.D. facilities with the connivance of the Bank Manager. Hence, the petitioner had lodged a complaint and a case was registered against Gopal and Bank Manager. After investigation, the respondent police has filed chargesheet against Gopal alone after deleting the name of the Bank Manager and the case was taken on file in C.C.No.38 of 2008. Pending the case, the petitioner has filed the protest petition in C.M.P.No.8676 of 2008 seeking further investigation under Section 173 (8) Cr.P.C, but, the said petition is dismissed. Against which, this Criminal Revision Case is filed.

3. Mr.V.Balu, learned counsel appearing for the petitioner would submit that the said Gopal, who was the Manager of Petrol Bunk, has forged the signature of the petitioner, created documents and raised huge loan, without his concurrence and knowledge. He would further add that all these activities can be done only with the connivance of Bank Manager, therefore, the petitioner sought to implicate the Bank Manager as an accused, but, he was cited only as a witness. He would further add that if the Bank Manager was not implicated as accused, he would flee from justice without undergoing the ordeal of trial and the petitioner would never be able to recover his loss and therefore, he would plead that the dismissal of the petition by the Trial Court is wrong.

4. Mr.V.Arul, learned Government Advocate (Criminal Side) appearing for the first respondent would submit that initally, the case was registered against Gopal and Bank Manager. After investigation, the respondent police has filed chargesheet against Gopal alone after deleting the name of the Bank Manager, but, before deleting the name of the Bank Manager, a legal opinion was obtained from the Deputy Director of prosecution, in which, it was stated that there was no documentary evidence available against Bank Manager to prove that he assisted the accused in forging the document as well as signatures. He would further add that it is always open for the petitioner after the cross-examination of Bank Manager, to invoke Section 319 Cr.P.C. to clamp the persons responsible for the crime.

5. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal.

6. On a perusal of the order of the Trial Court, it is seen that initally the case was registered against Gopal and Bank Manager. After investigation, the respondent police has filed chargesheet against Gopal alone after deleting the name of the Bank Manager, but, before deleting the name of the Bank Manager, a legal opinion was obtained from the Deputy Director of prosecution, in which, it was stated that there was no documentary evidence against Bank Manager to prove that he assisted the accused in forging the document as well as signatures and at this stage, it is not relevant and enough to prosecute the Bank Manager as accused in the main case and this has been rightly pointed out by the Court below. At this juncture, this

Court does not want to go into the merits of the case as it will affect the trial proceedings. After the cross-examination of Bank Manager, if any case is made out by the petitioner against the Bank Manager, it is always open for the petitioner to seek to proceed against him further in accordance with law. This Criminal Revision Case is dismissed and the order dated 09.07.2009 passed in Crl.M.P.No.8676 of 2008 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai, stands confirmed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

paa

To

1. The Inspector of Police
   Central Crime Branch
   Egmore
   Chennai-600 008.

2. The XI Metropolitan Magistrate,
   Saidapet, Chennai.

Criminal Revision Case No. 844 of 2009

CNR (CO)
PSI (07.07.2015)