

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18-08-2015

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM

Crl.R.C.No.300 of 2013

Shenbagavalli

Petitioner

Vs.

State by the Superintendent
of Police
Department of Vigilance and
Anti Corruption
Chennai City- 2
Detachment, Adyar
Chennai

Respondent

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. To set aside the order in C.M.P.No.1000 of 2010 in Special Case No.9 of 2005 dated 04-07-2011 and call for the records and discharge the petitioner from all charges.

For petitioner :: Mr. G.K. Sekar
For respondent :: Mr. R. Pratap Kumar,
G.A.(Crl.Side)

ORDER

This criminal revision has been directed against the order dated 04-07-2011 passed in C.M.P.No.1000 of 2010 in Special Case No.9 of 2005 by the Chief Judicial Magistrate, Chengalpattu.

2. The revision petitioner herein has filed C.M.P.No.1000 of 2010 in Special Case No.9 of 2005 under Section 227, Cr.P.C., praying to discharge her, wherein the present respondent has been shown as sole respondent.

3. It is averred in the petition that the petitioner has been arrayed as seventh accused in Special Case No.9 of 2005. During the relevant period, the petitioner has served as a Sub-Registrar and she has no connection whatsoever with the offences alleged to have been committed by the remaining accused. It is the duty of the remaining accused to issue relevant certificates and the limited role played by the petitioner is that she made registration and therefore, the petitioner has been falsely implicated in Special Case No.9 of 2005. Under the said circumstances, the present petition is filed for getting the relief sought for therein.

4. On the side of the respondent, counter has been filed wherein it is stated that with active connivance of all the accused, a loss has occurred to the Government to the tune of Rs.42,80,500/- (Rupees Forty two lakhs eighty thousand five hundred only) and therefore, the relief sought for in the petition cannot be granted.

5. The Court-below after considering the rival contentions raised on either side has dismissed the petition. Against the dismissal order, the present criminal revision case has been preferred at the instance of the petitioner as criminal revision petitioner.

6. The learned counsel appearing for the petitioner has vehemently contended to the effect that the petitioner has served as a Sub-Registrar during the relevant period and her role is very very limited and all the impugned documents have been prepared only by the remaining accused and therefore, the petitioner cannot be implicated in Special Case No.9 of 2005. Under the said circumstances, the present petition has been filed for getting the relief sought for therein. But the Court-below without considering the nature of averments made in the petition has erroneously dismissed the same and therefore, the order passed by the Court-below is liable to be set aside.

7. The learned Government Advocate has contended that in the instant case, all the accused are facing charges under Section 120 (b), IPC along with other Sections of law and the specific contention put forth on the side of the respondent is with the active connivance of all the accused, a loss has occurred to the tune of Rs.42,80,500/- (Rupees Forty two lakhs eighty thousand five hundred only) by way of registering bogus documents and under such circumstances, the Court-below has dismissed the petition and therefore, the dismissal order passed by the Court-below does not call for any interference.

8. It is an admitted fact that during the relevant period the petitioner has served as Sub-Registrar. It is also equally an admitted fact that the remaining accused have also served as Government Servants in Revenue Department.

9. The specific allegation put forth on the side of the respondent is that on the basis of active connivance on the part of all the accused, a loss to the tune of Rs.42,80,500/- (Rupees Forty two lakhs eighty thousand five hundred only) has been caused to the Government. As rightly pointed out on the side of the respondent, all the accused are facing a charge under Section 120 (b), IPC along with other sections of law.

10. It is a settled doctrine of law that it is highly impossible to have prima facie evidence with regard to the offences punishable under Section 120 (b), IPC and the same can be inferred and proved only at the time of trial.

11. In the instant case, as adverted to in many places, all the accused are facing charges under Section 120(b), IPC along with other sections of law. Therefore, simply because the petitioner has served as a Sub-Registrar during the relevant period, at this stage, the Court cannot come to a conclusion that she has not played any role in connection with the offences alleged to have been committed by the accused. Further, the learned Government Advocate has represented that in Special Case No.9 of 2005, charges have been framed and admittedly, the present petition has been filed under Section 227, CR.P.C., where it has been clearly stated that if no grounds are available, the concerned Magistrate is having the power of discharge. But, in the instant case, already necessary charges have been framed on the basis of the materials available on record and therefore, the relief sought for cannot be granted and the Court-below after considering the divergent submissions made on either side, has rightly come to the conclusion that prima facie case is made out against the petitioner/accused. In view of the foregoing narration of the factual aspects, this Court has not found any force in the contention put forth on the side of the petitioner/accused and altogether, the present Criminal Revision Case deserves to be dismissed.

12. In fine, this criminal revision case is dismissed and the order passed in C.M.P.No.1000 of 2010 in Special Case No.9 of 2005 is confirmed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

glp

To

The Superintendent of Police
Department of Vigilance and Anti Corruption
Chennai City- 2
Detachment, Adyar
Chennai.

- + 1 cc to M/s. G.K. Sekar, Advocate Sr.43519
- + 1 cc to the Public Prosecutor, High Court, Madras SR.43990

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ALA (CO)
EU 16.09.15