



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Crl.O.P.(MD)No.17533 of 2015

and

M.P.(MD)Nos.1&2 of 2015

Vallinayagam @ Ravi

: Petitioner

Versus

1.State rep.by

The Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanyakumari District

2.Anbalagan

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying, to call for the records relating to the Crl.R.P.(MD)No.3 of 2008 on the file of Sessions Judge, Kanyakumari Division, Nagercoil, in Cr.M.P.No.10217 on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District and set aside the same.

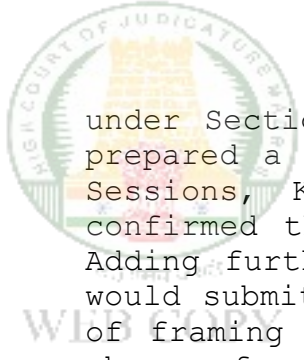
For Petitioner : Mr.D.Saravanan

For Respondent-1: Mr.K.Anbarasan
Govt.Advocate

O R D E R

The petitioner/accused has come forward with this application for setting aside the order passed in Crl.R.P.(MD)No.3 of 2008, on the file of the learned Sessions Judge, Kanyakumari Division, Nagercoil, confirming the order passed in Cr.M.P.No.10217, on the file of the Judicial Magistrate No.II, Nagercoil, Kanyakumari District.

2. The learned counsel appearing for the petitioner submitted that the petitioner/accused would submit that the petitioner/accused is facing criminal trial in C.C.No.26 of 2005. He filed an application, for discharging him from the charges in Cr.M.P.No.10217 of 2015, for the offence under Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and Section 506 (i)(3 counts) of IPC. The trial Court partly allowed the petition, discharging the petitioner/accused only from the offence under Section Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, but directed to frame charge



under Section 506(ii) of IPC. Against which, the petitioner/accused has prepared a Criminal Revision Petition No.3 of 2009, before the Court of Sessions, Kanyakumari at Nagercoil. The learned Sessions Judge has confirmed the order of the learned Judicial Magistrate No.2, Nagercoil. Adding further, the learned counsel appearing for the petitioner/accused would submit that the learned Judicial Magistrate No.2, Nagercoil instead of framing charges under Section 506(i) of IPC., directed to frame the charge for an offence under Section 506(ii) of IPC. Therefore, the petitioner/accused has come forward with this application to quash the same.

3. Considering the facts and circumstances of the case, notice to the 2nd respondent is dispensed with.

4. I have carefully considered the submissions made on either side and perused the materials available on record.

5. Perusal of the orders of Courts below would reveal that the trial Court, after hearing the parties had allowed the petition filed by the petitioner/accused, discharging him for an offence under Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003, but directed to frame charge under Section 506(ii) of IPC., instead of 506(i) of IPC. Against which, the petitioner/accused has prepared a Criminal Revision Petition No.3 of 2009, before the Court of Sessions, Kanyakumari at Nagercoil. The learned Sessions Judge while dismissing the revision has held that there are grounds to frame charge against the petitioner for an offence punishable under Section 506(i) of IPC.

6. Admittedly, the revisional Court came to a finding that there are materials to frame charge under Section 506(i) of IPC., against the petitioner / accused, but the trial Court has directed to frame charges for an offence under Section 506(ii) of IPC., which in my considered opinion, the Magistrate has committed error in framing charge under Section 506(ii) IPC., and hence, it is hereby set aside.

7. In the result, the Criminal Original Petition is disposed of with a direction to the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari, to frame a fresh charge against the petitioner for an offence under Section 506(i) IPC. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

/TURE COPY/

Sub Assistant Registrar

MPK

To



2.The Judicial Magistrate No.II,
Nagercoil,
Kanyakumari District

3. DO THRO' THE CHIEF JUDICIAL MAGISTRATE, NAGERCOIL,
KANYAKUMARI DISTRICT.

4.The Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanyakumari District

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to MR.D.SARAVANAN , ADVOCATE, SR NO: 59443

JAM /28.10.2015/SKS-RR/3P-7C

Order made in
Cr1.O.P. (MD) No.17533 of 2015

Dated:-
08.10.2015