

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1194 of 2010

and

M.P.No.1 of 2010

K.N.Rahamadulla

.. Petitioner

vs.

State represented by
The Deputy Superintendent of Police
Organised Crime No.1,
CBCID, Guindy
Chennai

.. Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C.
against the judgment of learned Additional Sessions Judge and V
Fast Track Judge, Chennai, in Crl.M.P.No.66 of 2010 in
S.C.No.207 of 2010 on 30.08.2010.

For Petitioner : Mr.A.D.Jagadish Chandira

For Respondent : Mr.C.Iyyapparaj
Government Advocate [Crl.side]

O R D E R

This revision arises against the order of learned Additional
Sessions Judge and V Fast Track Judge, Chennai, passed in
Crl.M.P.No.66 of 2010 in S.C.No.207 of 2010 on 30.08.2010.

2. Prosecution case is that this petitioner/A5 was one of
the directors of A1 company. Petitioner along with other
accused, under promise of giving contract work towards removal
of sand, received a sum of Rs.20,00,000/- as Earnest Money
Deposit from the de facto complainant in the year 2004, but has
failed to do so. When the de facto complainant demanded return
of money, A2 and A10 threatened him by holding a pistol to his
head. On coming to know that A2 had cheated many people like
him, the de facto complainant filed a complaint before the
respondent in the year 2007. A case was registered in Crime No.2
of 2007 on the file of the respondent for offences u/s.120(b),
406, 420, 307 r/w 34 IPC, and 27 of Indian Arms Act, 1959,

against all the accused. Upon completion of investigation, a charge sheet was filed informing commission of offences u/s.406, 420, 120(b) r/w 34 IPC against all accused. Accused 2 and 10 were also charged of offences u/s.307 and 27 of Indian Arms Act, 1959. Petitioner/A5 filed C.M.P.No.66 of 2010 in S.C.No.207 of 2010 seeking discharge, which came to be dismissed under orders dated 30.08.2010. Hence, this revision.

3. Learned counsel for petitioner submits that though none of the witnesses examined by the prosecution had spoken to any role played by this petitioner, the Investigating Officer has proceeded to array him also an accused by stating that the petitioner being one of the Directors of the company had withdrawn Rs.2,00,000/- from the account held by the company in a private bank to his personal account. Petitioner had Joined as a Director of A1 Company on 24.11.2003 and retired with effect from 31.03.2005. Form-32 stands filed in keeping with the requirements of the Companies Act. The occurrence took place on various dates viz., 12.11.2004, 08.02.2005 and 15.02.2006. The complaint was filed on 23.02.2007. Cheque was issued in favour of the petitioner, payment was realised in his account and money was withdrawn. It is admitted position that cheque has been issued in favour of the petitioner and such act of encashing cheque issued by company in his favour by itself cannot be read as connivance on the part of the petitioner in the wrong doings alleged. In circumstances where none of the list witnesses spoke to any role of this petitioner, it would be improper to require the petitioner to face the rigour of trial merely on such ground.

4. This Criminal Revision shall stand allowed. The order of learned Additional Sessions Judge and V Fast Track Judge, Chennai, passed in Crl.M.P.No.66 of 2010 in S.C.No.207 of 2010 on 30.08.2010, shall stand set aside. Petitioner/A5 shall stand discharged of all charges. However, it is made clear that, if, in the course of trial, there is reason to suspect the involvement of this petitioner in the wrong doing alleged, it will always be open to the Court below to proceed under Section 319 Cr.P.C. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The Additional Sessions Judge and
V Fast Track Judge, Chennai

2.The Deputy Superintendent of Police
Organised Crime No.1,
CBCID, Guindy
Chennai

3.The Public Prosecutor,
High Court, Madras.

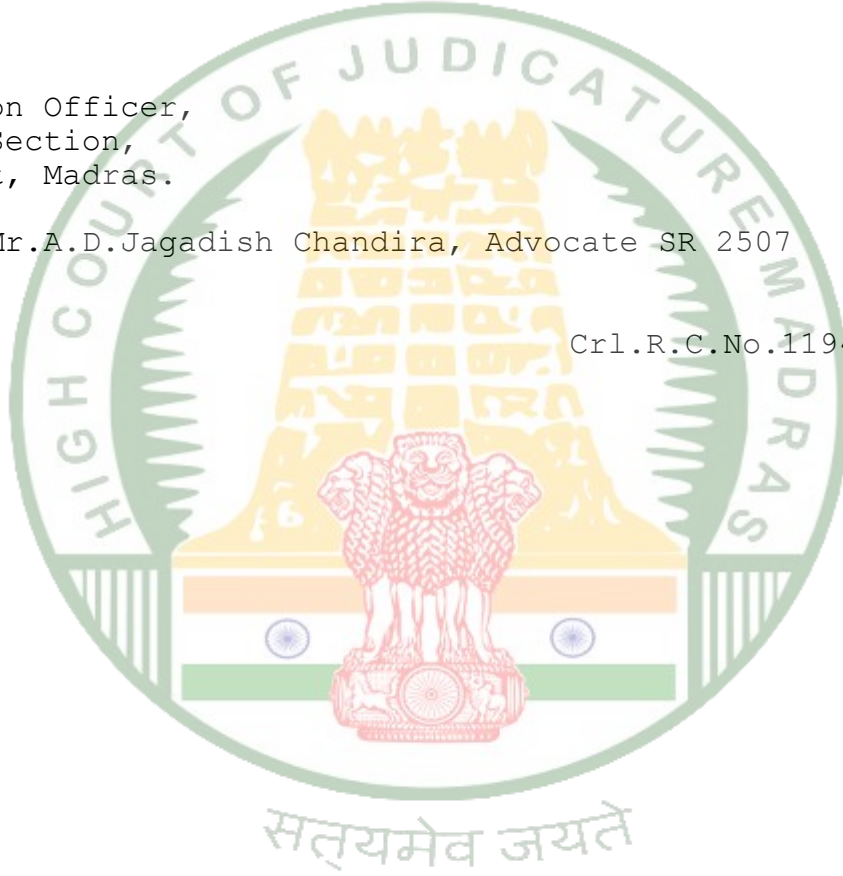
Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+1 cc to Mr.A.D.Jagadish Chandira, Advocate SR 2507

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Cr1.R.C.No.1194 of 2010



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