IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.01.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CRL.RC.No.1219/2010

R.K.Kanhiayalal .. Petitioner

Versus

The Assistant Commissioner
of Income Tax, Chennai. .. Respondent

Criminal Revision filed under section 397 r/w 401 Cr.P.C., against the order dated 18.10.2010 passed by the learned Additional Chief Metropolitan Magistrate, [EO-1], Egmore, Chennai in Crl.MP.No.1613/2010 in EOCC No.178/2005 dismissing the petition for discharge u/s.245[1] Cr.P.C.

For Petitioner : No representation

For Respondent : No representation

ORDER

Challenging the order of dismissal of the discharge petition in Crl.MP.No.1613/2010 in EOCC No.178/2005 by the learned Additional Chief Metropolitan Magistrate, [EO-1], Egmore, Chennai, dated 18.10.2010, the present revision has been filed.

2 In brief, the case of the prosecution is that the petitioner/accused, pursuant to a search conducted at his residence and the business premises and subsequent to notice issued u/s.156BC of the Income Tax Act on 13.02.2002, followed by reminders of 11.10.2002, 30.01.2003 and 27.07.2003, calling upon the accused to file the Block Return of income for the period 01.04.2001 to 28.12.2001 in respect of the Block Assessment on or before 04.09.2002, has failed to furnish the Block Return of income and also failed to take xerox copies of the seized materials despite the specific permission granted by the respondent/complainant on 20.10.2003 and further, the said Block Return of income was filed by the accused belatedly. Hence, the complaint in EOCC.No.178/2005.

3 Before the trial Court, the prosecution examined three witnesses and marked 32 exhibits. The accused filed

Crl.MP.No.1613/2010 in EOCC.No.178/2005 to discharge him from the case and the Court below, upon considering the facts and materials placed before it, dismissed the said petition. Hence, this revision.

4 There is no representation on either side.

5 This revision challenges the dismissal of Crl.MP.No.1613/2010 in EOCC No.178/2005, a petition seeking discharge. The respondent has alleged the commission of the offence u/s.276 CC of the Income Tax Act, in that the petitioner/accused has failed to submit the Block Returns of income, despite notice under section 158BC of the Act. In dismissing the discharge petition, the Court below has observed that the question whether belated submission of the Block Return was willful or wanton or involved mens rea, has to be decided only after the completion of the trial and that at a preliminary stage, it cannot go deep with the evidence.

This Court finds no error in the said order. Accordingly, the Criminal Revision is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

AP

To

1. The Assistant Commissioner
of Income Tax, Chennai.

2. The Additional Chief Metropolitan Magistrate (EO-I)
Egmore, Chennai

Copy to

The Section Officer
Criminal Section,
High Court, Madras

Crl.RC.No.1219/2010

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