

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.546 of 2010
&
M.P.Nos. 1 and 2 of 2010

1. Kangayan
2. Amuthambikay
3. Natarajan

... Petitioners

Vs.

The State Rep. By
The Inspector of Police
Magudanchavadi Police Station
Salem District

... Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. to set aside the order dated 20.04.2010 in C.M.P.No.3356 of 2009 in C.C.No.190 of 2009 on the file of the Judicial Magistrate II, Sankari.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr. C.Iyyapparaj
Government Advocate (Crl.side)

O R D E R

This revision challenges the order of the learned Judicial Magistrate II, Sankari passed in Crl.M.P.No.3356 of 2009 in C.C.No.190 of 2009.

2. The petitioner has moved aforesaid miscellaneous petition seeking discharge. In dismissing the same, the Court below had reasoned that the stage of 207 Cr.P.C had not been crossed. It also noted that the contentions of the petitioner regards a false complaint having been preferred owing to enmity and of improper investigation could be decided only at the time of trial.

3. Learned counsel for the petitioner has submitted that furnishing of documents to the petitioner/accused in keeping with Section 207 Cr.P.C was effected on 07.11.2009. It is only thereafter that the petition for discharge was moved on 13.11.2009.

4. Mr.N.Manokaran, seeking to interplead on behalf of List Witness No.2 submits that the order under challenge also informs that the contentions of petitioner is a matter for trial and as such, is a reasoned one.

5. This Court is of the opinion that where the Court below has been of the erroneous view that the stage of 207 Cr.P.C had not been crossed, no proper consideration of the merits of the petition before it would have been entered upon.

For the said reason, this revision shall stand allowed. It is seen that under the orders of this Court in CrI.O.P.No.21561 of 2010 dated 01.11.2011, the case in C.C.No.190 of 2009 on the file of the Judicial Magistrate II, Sankari stands transferred to the Court of the Chief Judicial Magistrate, Salem towards enabling simultaneous trial of both, the said case as also the case in C.C.No.24 of 2010 on the file of such Court. The petitioner shall now be entitled to move a fresh petition seeking discharge before the transferee Court, viz., Chief Judicial Magistrate, Salem. Such petition shall be decided solely upon merits. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa
To

1. The Judicial Magistrate II,
Sankari
2. Do Through The Chief Judicial Magistrate,
Salem
3. The Inspector of Police
Magudanchavadi Police Station
Salem District
4. The Public Prosecutor,
Madras High Court, Chennai

+1cc to Mr.K.Selvaraj, Advocate, S.R.No.2839
+1cc to Mr.N.Manokaran, Advocate, S.R.No.2912

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MG(CO)
CA(09/03/2016)