

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1332 of 2016

and

Crl.M.P.No.11959 and 11960 of 2016

Umanathan

... Petitioner

Vs.

State by
The Inspector of Police,
Central Crime Branch,
Salem City.

... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order passed in Crl.M.P.No.1567 of 2016 in C.C.No.371 of 2014 dated 07.06.2016 on the file of the Judicial Magistrate No.II, Salem.

For Petitioner : M/s.S.Ambigapathi

For Respondent : Mr.K.Madhan

Government Advocate (Crl.side)

O R D E R

This revision arises against the order passed in Crl.M.P.No.1567 of 2016 in C.C.No.371 of 2014 dated 07.06.2016 on the file of the Judicial Magistrate II, Salem.

2. C.C.No.371 of 2014 on the file of learned Judicial Magistrate II, Salem, is pending trial for offences u/s.406,420,468,471 r/w120(b) of IPC. The prosecution case is that the accused had effected fraudulent transfer of vehicle belonging to the defacto-complainant. The charge against the petitioner/A3 is that he facilitated and acted hand-in-glove with the accused 1 and 2/husband and wife. The petitioner has been charged of offended under Sections 406, 420, 468, 471 r/w 120B of IPC. Petitioner moved Crl.M.P.No.1567 of 2016 in C.C.No.371 of 2014 seeking discharge and the same was dismissed under order dated 07.06.2016. Against such dismissal, the present revision has been filed.

3. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

4. Learned counsel for petitioner submits that the petitioner initially was appointed in M/s.Ivangel Sales and Service Private Limited, a service provider of Kotak Mahindra Private Limited. On 10.07.2010 being satisfied with his services Kotak Mahindra Private Limited absorbed him and he was promoted as Assistant Manager on 05.07.2011. The wrong doing alleged is of period prior to the appointment of petitioner in Kotak Mahindra Private Limited. The complaint in the case has been preferred on 03.12.2009. On such date, the petitioner was not even in the services of Kotak Mahindra Private Limited, he having been engaged by the services provider of the complainant company only on 10.07.2010. The very First Information Report merely names the accused 1 and 2 and states that the other persons involved are the Manager of the Kotak Mahindra Bank and its employees.

5. A perusal of the order of the Court below reveals that the above position has not been considered by it. The Court below dismissed the discharge petition on 07.06.2016 informing that the statement of LW.15 reveals that the petitioner was involved in the wrong doing. Though LW.15 statement is to the effect that this petitioner was the Manager and involved in wrong doing, it is seen that the investigation agency has not bothered to cause any enquiry regards status of the petitioner as on the date of occurrence. In the said scenario, this Court accepts the present revision.

6. Accordingly, the Criminal Revision stands allowed. The order passed in Crl.M.P.No.1567 of 2016 in C.C.No.371 of 2014 dated 07.06.2016 on the file of the Judicial Magistrate No.II, Salem, stands set aside. Petitioner is 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 alleged wrong doing, it will always be open to the Court below to proceed under Section 319 Cr.P.C.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Salem.

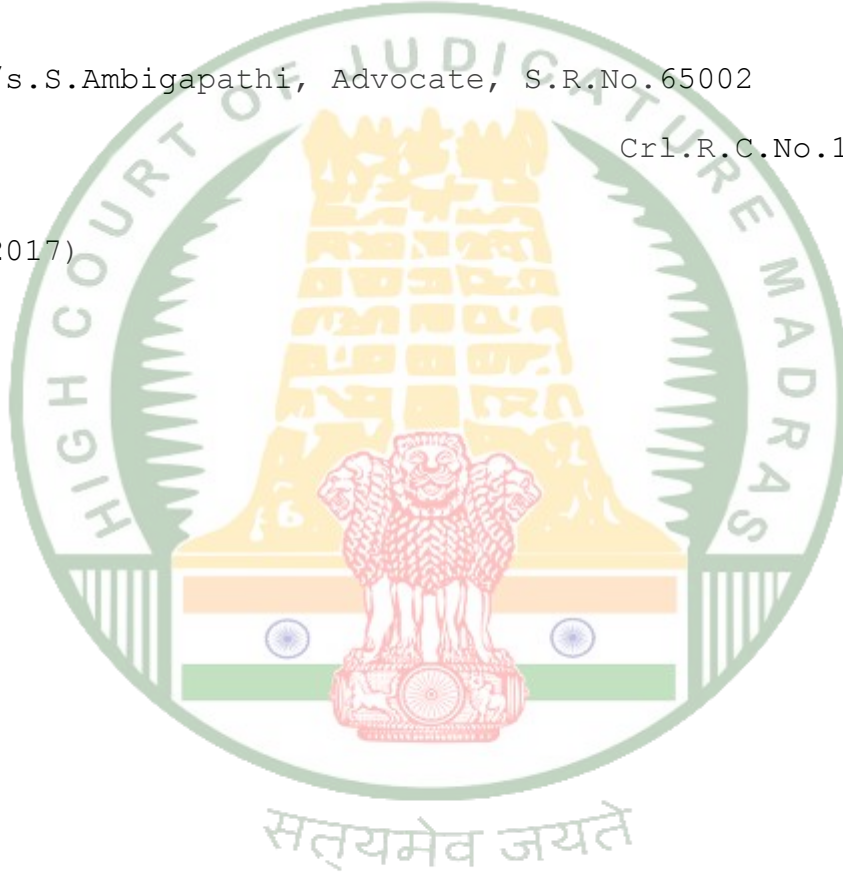
2.The Inspector of Police,
Central Crime Branch,
Salem City.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.S.Ambigapathi, Advocate, S.R.No.65002

CrI.R.C.No.1332 of 2016

AK(CO)
CA(23/01/2017)



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