

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.45 of 2016
&
Crl.M.P.No. 278 of 2016

R.Mohanraj

.. Petitioner

vs.

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

.. Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. to set aside the order dated 12.10.2015 made in Crl.M.P.No.4775 of 2015 in C.C.No.93 of 2015 on the file of Judicial Magistrate I, Mettur and allow the Criminal Revision Petition.

For Petitioner : Mr.D.Selvaraju

For Respondent : Mr.C.Iyyapparaj
Learned Govt. Advocate (Crl.side)

ORDER

This revision challenges the order passed by the Judicial Magistrate I, Mettur dated 12.10.2015 in Crl.M.P.No.4775 of 2015 in C.C.No.93 of 2015.

2. In case registered in Crime No.580 of 2013 for offences under Sections 279, 338 and 304A IPC, the petitioner was arrested on 27.10.2013. He moved a petition under Section 167 (5) Cr.P.C informing that the offences alleged against him are under Sections 279 and 304 A IPC, which were triable as a summon case and therefore, in the absence of the filing a charge sheet within 6 months, he was entitled to an order directing stoppage of further investigation. Such petition has been dismissed by the Court below and thereagainst this revision.

3. Heard learned counsel for petitioner and learned Government Advocate (Crl.side).

4. Learned counsel for petitioner submitted that the petition under Section 167 (5) Cr.P.C had been moved on 12.08.2015 and the respondent has filed the charge sheet dated 19.02.2014 suggesting that the investigation stood completed even on such date but the same actually had been filed on 06.10.2015. It is the submission of the learned counsel that the charge sheet has been antedated towards serving the respondent's purposes. We would now not go into the merits of such submission and would leave it to the petitioners to canvass the same before the trial Court. We note that 167 (5) Cr.P.C permits the Magistrate to grant further time to allow investigation beyond the prescribed period of six months, if the officer making the investigation

satisfies him that for special reasons and in the interest of justice, it is necessary to do so. The intervening act of filing of the charge sheet and informing investigation as completed within the prescribed period of 6 months, preclude the Magistrate from entering upon a finding whether further time has to be granted for further investigation. Even if an order under Section 167 (5) Cr.P.C had been passed in favour of the petitioner, the Sessions Judge is empowered under Section 167 (6) to vacate the same and direct further investigation. In the factual circumstances attending the case, it would be appropriate to uphold the order under challenge with the observation that it will be open to the petitioner to canvass that investigation stands not completed within the prescribed period of 6 months. In keeping with the judgment of the Apex Court in **1998 (II) CHN 136 (Kalyan Kumar Das Vs. State of West Bengal)**, the material to be considered by the trial Court will be only that gathered by the investigation within the prescribed period of 6 months.

5. The observations made herein above are not to be taken as touching upon the merits of the case in any manner.

The Criminal Revision is disposed of with the above observations. Consequently, the connected miscellaneous petition is closed.

12.01.2016

Index:yes/no
Internet:yes
gpa

C.T.SELVAM. J

gpa

To

1. The Judicial Magistrate I, Mettur
2. The Inspector of Police
Kolathur Police Station
Salem District
3. The Public Prosecutor
High Court, Madras.

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