

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2016

Coram

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

Crl.R.C.Nos.834 and 835 of 2016  
and Crl.MP.Nos.6328 and 6329 of 2016

Narayanappa

... Petitioner in Crl.RC.834 of 2016

1. Venkatesh

2. Munikrishna @ Munikrishanappa

... Petitioners in Crl.RC.835 of 2016

Vs.

The State of Tamil Nadu,  
Rep by Deputy Superintendent of Police,  
Berigai Police Station Cr.No.184 of 2003,  
Krishnagiri District.

2. Mrs.Subramaniammal

(impleaded as 2nd respondent by this Court  
on 04.07.2016 in Crl.MP.Nos.7178 and 7179 of 2016)

... Respondents in Crl R.C.834/16/  
Respondents in Crl R.C.No.835 of 2016

Prayer :- Criminal Revision Petitions are filed under Section 397  
r/w 401 of Cr.P.C. to set aside the orders dated 28.03.2016 made  
in Crl.MP.No.3311 and 3312 of 2015 in SC.No.95 of 2013 passed by  
the learned Principal Sessions Judge, Salem respectively.

For Petitioners:Mr.M.Devaraj in both the cases.

For Respondents:Mrs.M.F.Shabana, GA (Crl.side)

for R1 in both the cases.

M/S.S.Harinyi for

M/s.Giridhar and Sai

for R2 in both the cases.

COMMON ORDER

Both the criminal revisions are filed against the order  
passed by the learned Principal Sessions Judge, Salem dated  
28.03.2016 made in Crl.MP.Nos.3311 and 3312 of 2015 in STC.No.95  
of 2013.

2.The petition in Crl.MP.No.3311 of 2015 is filed by the prosecution under Section 319 Cr.PC to pass an order to arrest or summon Naryanappa so/.Venkatagriappa/proposed party to subject him to face criminal trial in Cr.No.184 of 2003 along with the respondent/accused. The trial Court after hearing the arguments of both sides, allowed the petition and arrayed the proposed respondent as A19 and directed to issue summons. Aggrieved against the order of the trial Court, the present revision petitioner/proposed party/Narayanappa s/o.Venkatagiriappa preferred Crl.RC.No.834 of 2016 before this Court.

3.After committal the case is pending before the Principal Sessions Judge, Salem in SC.No.95 of 2013, during the pendency of the trial, the PW1 was examined and after chief examination of PW1, the present petition was filed by the Inspector of Police, Berigai Police Station under Section 173(8) Cr.PC, to further investigate into the facts revealed by PW1 as to the identity of accused persons involved in the commission of offence and to forward a supplemental report in Cr.No.184 of 2013 Berigai Police Station. Aggrieved against the order of the trial Court, the petitioner preferred Crl.RC.No.835 of 2016 before this Court by the revision petitioners.

4.In this case, the Investigating Officer filed charge sheet before the Judicial Magistrate No.I, Hosur and the Judicial Magistrate No.I, Hosur take the case on file in PRC.No.1 of 2004 and committed the same to the Principal Sessions Court. Subsequently, the case was transferred from the file of Principal Sessions Court, Krishnagiri and taken up on the file of learned Principal Sessions Judge, Salem as SC.No.95 of 2013, during the course of trial PW1 was examined.

5.In Crl.RC.No.834 of 2015, the learned counsel for the petitioner contended that the trial Court without considering the facts erroneously allowed the application to implead the said Narayanappa as proposed party. In this case, there is no materials produced on the side of the prosecution to implead the present petitioner as party to the case. But the trial Court without relying on the settled principles of law passed an order which is liable to be dismissed and prays to set aside the order of the trial Court and to allow the criminal revision.

6.In Crl.RC.No.835 of 2015, the learned counsel for the petitioners would mainly contend that the trial Court without application of mind erroneously ordered for further investigation regarding the identity of the accused and directed to forward supplemental report which is contrary to law. The trial Court without following the settled principles of law laid down by the Hon'ble Apex Court, passed an order which is contrary to the evidence of PW1 and his statement. The trial

Court ought to have dismissed the application filed by the prosecution mistakenly and allowed the application, hence, the learned counsel prays to set aside the order of the trial Court and to allow the criminal revision.

7.The learned Government Advocate (Crl. side) appearing for the first respondent contended that the trial Court after appreciating the entire facts and circumstances of the case and after through analysis of materials and evidences of PW1 given before the trial Court comes to a correct conclusion, there is no illegality or infirmity in the orders passed by the trial Court and prays to dismiss the revision petitions.

8.The learned counsel for the petitioner in Crl.RC.No.834 of 2016 in his grounds of revision in paragraph 5 stated as follows :-

"5.The petitioner states that reading of the deposition of the PW1 would clearly establish that the petitioner has been deliberately implicated, where in the details of the entire accused persons are mentioned in details which shows clear case of false implication of the entire family."

On reading of the above grounds, the learned counsel for the revision petitioner admits there are sufficient incriminating material evidences are available against the petitioner in the above revision, but deliberately implicated by PW1, the same cannot be considered at this stage and it is premature to decide whether PW1 evidence is deliberate and falsely implicated the revision petitioner. This Court is of the considered view, the trial Court after considering the available materials and evidence of PW1 correctly comes to a conclusion and allowed the application and arrayed the revision petitioner/proposed party as A19 in this case. This Court finds there is no illegality or infirmity in the order passed by the trial Court in allowing the petition filed by the prosecution to add proposed accused as A19/Narayanappa w/o.Venkatagiriappa and the same does not warrant any interference by this Court.

9.The ground for revision raised in Crl.RC.No.835 of 2016, it is clearly stated that there is mistake of investigation regarding the identity of two persons. PW1 also in her evidence specifically stated that identity of A18/Munikrishnan @ Munikrishnappa son of Venkatappa is also known by name Siddhappa. Further the prosecution has shown A7/Sidhappa as absconding accused and NBW was issued against him and the case was split up against him, the case was committed against the remaining accused. In view of the above, the trial Court after considering the entire facts and circumstances of the petition filed by the prosecution, directed the investigating agency to further investigate and find out A7/Siddappa and A18/Munikrishnappa as named in the final report dated 27.10.2004

are one and the same person and to file its supplemental report by 25.04.2016. The trial Court has not passed any final order against A7 and A18 or any other persons. The trial Court directed the investigating agency to file supplemental report. This Court finds there is no illegality or infirmity in the order passed by the trial Court and the same does not warrant any interference by this Court.

10.In the result, both the criminal revisions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal Sessions Judge,  
Salem.
- 2.The Public Prosecutor,  
High Court, Madras.
- 3.The Deputy Superintendent of Bengali,  
Police Station,  
Krishnagiri District.

+2cc to Mr.M.Devaraj, Advocate Sr.56988, 56989

Cr1.R.C.Nos.834 and 835 of 2016

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srg 10/11/2016

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