

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

CrI.R.C.No.953 of 2016
and
CrI.M.P.Nos.7492 and 7493 of 2016

P.BaskarPetitioner/Accused No.2

Vs.

State represented by,
The Inspector of Police,
Crime Branch CID,
Organised Crime Unit,
Salem City.
Crime No.2074 of 2009.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, against the order passed by the Principal Sessions Court, Dharmapuri, in CrI.M.P.No.974 of 2016, dated 01.07.2016 in S.C.No.90 of 2015 dismissing a petition filed by the accused under Section 227 of Cr.P.C. to discharge the petitioner from the case.

For Petitioner : Mr.D.Gopinath, Senior Counsel
for M/s.V.Rajamohan

For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (CrI.Side)

ORDER

This Criminal Revision Case is directed against the order passed by the learned Principal Sessions Judge, Dharmapuri, in CrI.M.P.No.974 of 2016, in S.C.No.90 of 2015, dated 01.07.2016, dismissing the discharge petition filed by the petitioner/Accused No.2 under Section 227 of Cr.P.C.

2. It is an admitted fact that the present petitioner is A.2 in S.C.No.90 of 2015 and he was charged for the offences under Sections 147, 148, 323, 324, 307 and 302 IPC @ 120-B, 148, 302, 302 r/w. 149 and 120-B, 307, 307 r/w. 149 and 120-B, 324 and 324 r/w. 149 and 120-B IPC along with A.1 and A.3 to A.31.

3. The learned Senior Counsel appearing for the petitioner mainly contended that there is no evidence at the time of lodging of FIR that the present petitioner A.2 is also present in the place of occurrence and no specific overt act was attributed to A.1 and A.2 also. But, subsequently, the prosecution go by first version. Subsequently, after investigation, framed charges including the second accused for the offence under Section 120-B IPC along with other charges which is contrary to the previous investigation done by the investigating authority. Hence, the petitioner/A.2 is not at all participated in the conspiracy. The evidence given by L.W.24 and L.W.25 regarding the conspiracy is not at all acceptable, since they are examined only on 06.03.2010, nearly after four months from the date of occurrence. The learned Senior Counsel further contended that the Court below, without appreciating the above evidence, dismissed the discharge petition and hence, he prayed that the criminal revision case may to be allowed and the petitioner/A.2 may be discharged from the alleged offences.

4. The learned Government Advocate (Crl.Side) vehemently contended that there are sufficient materials available to frame charges against the petitioner/A.2 for the offences under Sections 120-B r/w. 302, 120 r/w.302 (Two counts) and 120 r/w.324 IPC. Even according to the petitioner, L.W.24 and L.W.25, in their evidence, clearly stated about the role played by the petitioner/A.2 in the criminal conspiracy on 20.11.2009. Hence, since there are incriminating materials available to frame the charges against the petitioner/A.2, the trial Court, correctly dismissed the discharge petition. There is no illegality or infirmity in the order passed by the trial Court and hence, the learned Government Advocate prayed that the criminal revision case may be dismissed.

5. This Court has perused the entire records. Admittedly, at the time of initial investigation, there are some materials available that the petitioner/A.2 was present in the place of occurrence. But during the course of investigation, L.W.24 and L.W.25 have clearly stated about the specific role of the present petitioner/A.2 in the conspiracy hatched by him on 20.11.2009.

6. In this case, whether the evidence of L.W.24 and L.W.25 has to be believed or not has to be decided only at the time of trial and it is not a proper time to decide whether the evidence of L.W.24 and L.W.25 are believable or not. Since the petitioner/A.2 was also participated in the criminal conspiracy, the discharge petition filed by him is not at all maintainable. Further, since there are sufficient incriminating materials available to frame the charges against the petitioner/A.2, the

learned Principal Sessions Judge, Dharmapuri, had correctly dismissed the petition filed by the petitioner for discharge. This Court finds no reason to interfere with the order of the learned trial Judge and hence, the criminal revision case is liable to be dismissed.

7. In the result, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jrl
To

1. The Principal Sessions Judge,
Dharmapuri.
2. The Inspector of Police,
Crime Branch CID,
Organised Crime Unit,
Salem City.
3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.V.Rajamohan, Advocate Sr.44625

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Cr1.R.C.No.953 of 2016

GJ II[co]
srg 05/08/2016

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