

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2016

CORAM

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.R.C.No.531 of 2013
and
M.P.No.1 of 2013

D.Jayakumar
S/o.K.V.Dhamodharan .. Petitioner

Vs

The State represented by
Sub Inspector of Police,
Central Crime Branch Team XVI,
Egmore, Chennai - 600 008.
Crime No.747 of 2008 .. Respondent

Prayer:- Criminal Revision filed under Section 397 & 401 Cr.P.C., praying to call for the entire records relating to the order dated 20.03.2013 made in Crl.M.P.No.3340 of 2012 in C.C.No.6 of 2010 on the file of the learned Judicial Magistrate I, Poonamallee and set aside the same.

For Petitioner : Mr.S.M.Thamizhilselvam

For Respondent : Mr.V.Arul
Government Advocate [Crl.side]

O R D E R

A2 in C.C.No.6 of 2010 on the file of the learned Judicial Magistrate I, Poonamallee, challenges dismissal of his discharge petition in Crl.M.P.No.3340 of 2012.

2. Along with certain others A2 is being prosecuted before the said Magistrate for offences u/s.465, 466, 467, 468 r/w 471, 420 r/w 120(B) IPC. A2 filed the discharge petition contending that there is no incriminating material as against him. The trial Court hearing both sides dismissed the petition.

3. The learned counsel for the petitioner submitted

that the petitioner is innocent. There is no incriminating material as against the petitioner. In the circumstances, the impugned order is not in accordance with law.

4. On the other hand, the learned Government Advocate [Crl.side] submitted that along with the Final Report incriminating materials also against A2 has been submitted to the Court and cognizance thereon also taken as against A2.

5. I have anxiously considered the rival submissions and perused the impugned order and materials on record.

6. After investigation, the Investigation Officer filed Final Report u/s.173 Cr.P.C. as against A2 also. The learned Magistrate took cognizance thereon for certain specific IPC offences. As regards A2, the prosecution referred to the materials which are stated to be incriminating in nature.

7. It is pertinent to note that the accused has the right to defend himself. The presence of innocence is always in his favour. It can be displaced only upon producing acceptable legal evidence. The right to establish his innocence is always available to him.

8. In the circumstances, this Criminal Revision is disposed of with liberty to the petitioner to raise the very same contentions before the trial Court at the appropriate stage of the trial of the case, which the trial Court has to consider in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Judicial Magistrate I,
Poonamallee.

2.Do-Thro'The Chief Judicial Magistrate, Tiruvellore.

3.The Sub Inspector of Police,
Central Crime Branch Team XVI,
Egmore, Chennai - 600 008.

4.The Additional Public Prosecutor,
High Court, Madras.

+3 ccs to M/s.S.M.Thamizhilselvam, Advocate, sr.18647

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