



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.GOKULDAS

Cr1.R.C.MD).No.759 of 2016 &

Cr1.M.P. (MD).No.10824 of 2016

Nagarajan ..Petitioner/Proposed Accused
Vs.

1.The State represented by,
The Inspector of Police,
Suthamalli Police Station,
Tirunelveli District. ..Respondent/Petitioner
(Crime No.209 of 2012).

2.Ravichandran ..Defacto complainant

Prayer:- Criminal Revision Petition is filed to call for the records relating to the order passed by learned Assistant Sessions Judge, Ambasamudram in Cr.M.P.No.58 of 2016 in S.C.No.357 of 2014 vide his order, dated 08.08.2016 and set aside the same by appreciating the above said fact.

For Petitioner : Mr.R.Anand for
Mr.P.Samuel Gunasingh

For Respondents-1 :Mrs.S.Prabha,
Government Advocate (Criminal Side)

ORDER

This criminal revision case is filed to call for the records relating to the order, dated 08.08.2016, passed by the learned Assistant Sessions Judge, Ambasamudram, in Cr.M.P.No.58 of 2016, in S.C.No.357 of 2014 and set aside the same.

2. The first respondent police filed a petition under Section 319 Cr.P.C. in Cr.M.P.No.58 of 2016 to get an order to proceed against the proposed accused, namely Nagarajan/the petitioner herein as accused in the case in S.C.No.357 of 2014, in the light of PW1's testimony in chief-examination. The Trial Court allowed the said petition. Aggrieved against the order, the proposed accused is before this Court for the relief as stated earlier.

3. At the out set, the learned counsel for the petitioner submitted that since the name of the petitioner is not found place in the charge sheet filed by the respondent police before the Trial Court, which was also taken cognizance by the Trial Court, the responsibility for the Trial Court to send notice to the proposed accused/petitioner herein. Therefore, the matter may be remitted back to the Trial Court to send notice to the proposed



accused and to extend fair chance to the petitioner herein to contest the criminal case.

4. The learned Government Advocate (Criminal Side) also fairly conceded that the name of the petitioner herein has not found place in the charge sheet.

5. Heard the learned counsel on either side and perused the impugned order. Paragraph 2 of the impugned order reads as follows:

"2. Present accused accused received copy through their advocate, but in spite of the repeated adjournments, they failed to file their objection."

6. From the above, it is not clear as to whether the proposed accused has received any notice. It is simply mentioned that the present accused received copy through their advocate. Admittedly, the petitioner name is not found place in the charge sheet. Therefore, as rightly pointed out by the learned counsel for the petitioner, there is no possibility for the Trial Court to issue notice to the proposed accused/petitioner herein. On this score alone, the impugned order is set aside and the matter is remitted back to the Trial Court, to decide the case after following the due process of law.

7. In the result, the criminal revision is allowed. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

- 1.The Assistant Sessions Judge, Ambasamudram.
- 2.-do-thro'The Principal Sessions Judge, Tirunelveli.
- 3.The Inspector of Police,
Suthamalli Police Station, Tirunelveli District.
- 4.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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