

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal R.C.No.1028 of 2015
and M.P.No.1 of 2015

1.B.Thirupathi Ganesan
2.Ganesh Kumar
3.Sivakumar

.... Petitioners/Accused R3 to R5

Vs.

State rep. By
Inspector of Police
Central Crime Branch,
Team-XXI, Thousand Lights
Chennai.(Crime No.425/2008) Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code praying to set aside the order dated 09.09.2015, passed in CMP.No.6188 of 2014 in C.C.No.189 of 2009 on the file of the Judicial Magistrate-I, Poonamallee.

For Petitioners : Mr.R.Murali
For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

ORDER

Challenging the order dismissing the discharge petition filed under Section 239 Cr.P.C., the present revision has been filed.

2.The petitioners are A3 to A5 in C.C.No.189 of 2009 on the file of the Judicial Magistrate-I, Poonamallee and they stood charged for an offence under section 465, 466,467,468, 471 and 420 r/w 120-B. Earlier, the petitioners filed a petition under Section 239 Cr.P.C. to discharge them from all the charges. The Court below dismissed the above said petition. Challenging the same, the present revision has been filed.

3.Heard Mr.R.Murali, learned counsel appearing on behalf of the petitioners and Mr.R.Ravichandran, learned Government Advocate appearing on behalf of the respondents.

4.Learned counsel for the petitioners submitted that even though elaborate arguments were advanced by both sides before the Court below, the Judicial Magistrate dismissed the petition on the ground that the petitioners did not receive the copies under section 207 Cr.P.C., the petition to discharge them is premature and the petition cannot be entertained at stage. Learned counsel further submitted that non-obtaining of the copies under Section 207 Cr.P.C. is not a ground to prevent the petitioners to file a petition for discharge under Section 239 Cr.P.C. and the learned Judicial Magistrate should consider the police report and documents filed under Section 173 Cr.P.C. and after examining the above documents, the learned Judicial Magistrate is satisfied that the charges against the accused to be groundless he can discharge. Hence, the order passed by the learned Judicial Magistrate dismissing the petition on the ground that it is premature is totally illegal.

5.Per Contra, the learned counsel appearing on behalf of the respondent submitted that even though the final report was filed in 2009, so far the petitioners did not come forward to receive the copies under Section 207 Cr.P.C. In the above circumstances, the learned Judicial Magistrate had passed an order.

6.I have considered the rival submissions made by the counsel on either side. Today, the learned counsel appearing for the petitioners submitted that he is always ready and willing to receive the copies under Section 207 Cr.P.C. In the above circumstances, without going into the merit of this case, in order to given an opportunity to the petitioner, the order passed by the Court below dismissing the application as premature on the ground of non receipt of copies by the accused is set aside, and the matter is remanded back to the Court below for fresh consideration of the matter on merit.

7.The petitioners are directed to receive the copies on the next hearing dated on 10.05.2017 and after receipt of the copies, the learned Judicial Magistrate is directed to consider the petitioners application filed under Section 239 Cr.P.C., and after hearing the parties, pass orders on merits and in accordance with law. The above exercise should be completed on or before 26.05.2017.

7. With the above direction, the Criminal Revision is disposed of. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rm

To

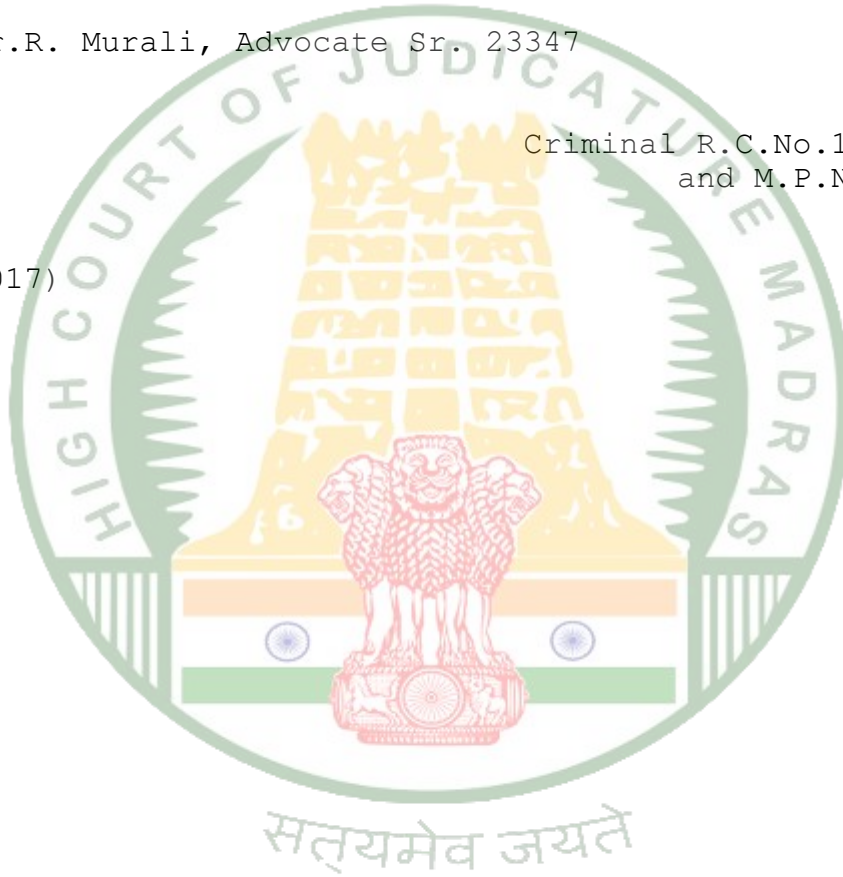
The Judicial Magistrate-I,
Poonamallee.

2. The Inspector of Police,
Central Crime Branch,
Central Crime Branch Team,
XXI Thousand Lights, Chennai.

+lcc to Mr.R. Murali, Advocate Sr. 23347

Criminal R.C.No.1028 of 2015
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RM(CO)
VR(25/4/2017)



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