

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2017

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

CRL.RC.No.1161 of 2016 & CRL.M.P.No.10223 of 2016

S.Alwin

... Petitioner/5th Accused

Vs.

The State, Rep. by Inspector of Police,
Kothagiri P.S., Crime No:3/2013.

... Respondent/Complainant

Criminal Revision case filed under Section 397 and 401 of Criminal Procedure Code to set aside the order passed in Criminal M.P.No.119 of 2014 in S.C.No.46 of 2013 dated 15.09.2015 by the Sub Judge, Uthagamandalam by allowing this Criminal Revision Petition.

For Petitioner : Mr.D.Muthukumar

For Respondent : Mr.K.Arul
Additional Public Prosecutor

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This revision case has been filed against the order dated 15.09.2015 passed by the learned Sub Judge, Udhagamandalam in Criminal M.P.No.119 of 2014 in S.C.No.46 of 2013.

2.The petitioner is A5 in the said sessions case pending before the trial court and he filed a petition under Section 227 of Cr.P.C for discharging him.

3.The said petition, after having been heard, was rejected by the Trial Court through the said impugned order against which, the present case has been filed.

4.The charge memo against the petitioner and other accused was for the offence punishable under Section 120 read with 397 IPC and under Section 397 read with 34 IPC.

5.Learned counsel appearing for the petitioner after making some arguments on the merits of this revision case, has ultimately made a submission that it is suffice that if this Court erases the finding of the Trial Court in the order impugned at para 8 to the extent that the petitioner/5th accused during the time of occurrence, had been in the vehicle, which involved in the crime, since this finding given by the trial Court would have some bearing in the trial to be commenced.

6.I have heard the learned Additional Public Prosecutor, who appears for the State in this regard.

7.After considering the said submission made by the learned counsel appearing for the petitioner, as well as the submission made by the learned Additional Public Prosecutor, I am of the view that the said findings given at para 8 of the impugned order that the petitioner had been in the vehicle at the time of occurrence can never be treated as a reason and prima facie, it was given by the trial Court for the purpose of disposing the petition to discharge the petitioner.

8.The said finding of the Trial Court shall not stand in the way of proceeding by the Trial Court nor the said finding shall be construed that on this aspect the Trial Court has already given its opinion and based on which it can be influenced. The Trial Court would independently decide the case based on the evidence going to be let in by both sides.

9.With these observations, this Criminal Revision Case is dismissed.

10. Since, the case is of the year 2013, the said case may be completed as early as possible, preferably within a period of six months from the date of receipt of a copy of this order. The petitioner shall cooperate for the trial without taking any undue protractive or delay measures by filing unnecessary petitions before the Trial Court. Consequently connected M.P. is closed.

30.08.2017

Index: Yes/No

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To

1. The Sub Judge, Uthagamandalam.

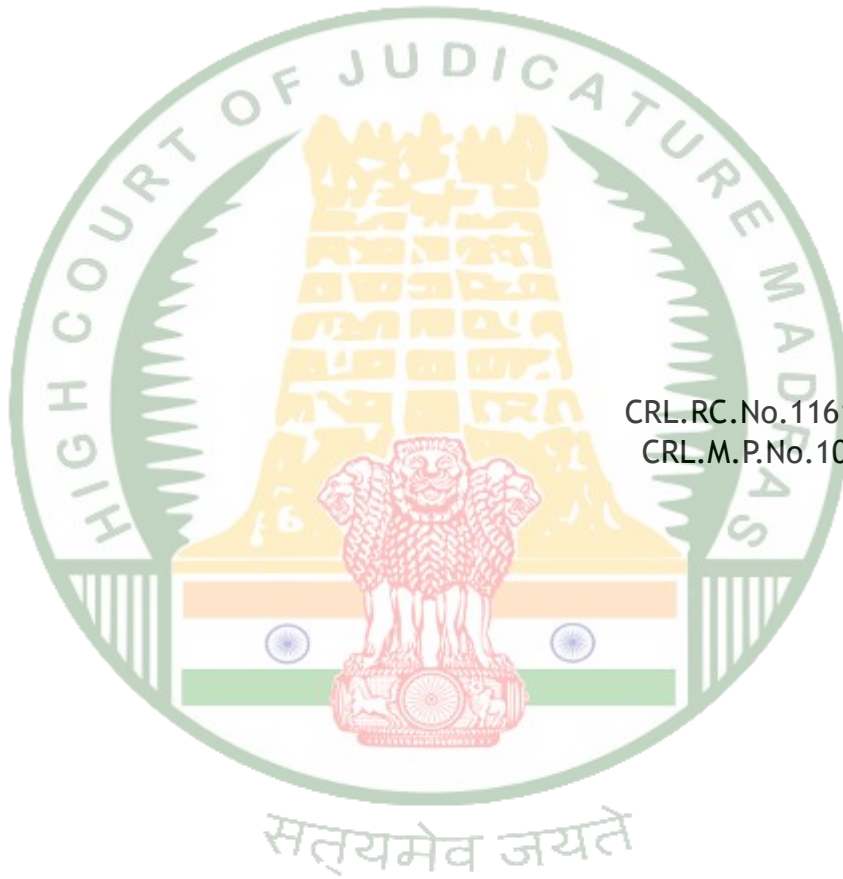
2. The Inspector of Police,
Kothagiri P.S., Crime No:3/2013.

3. The Public Prosecutor,
High Court Madras.

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R.SURESH KUMAR, J.

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