

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

Crl.R.C.No.303 of 2016
and
Crl.M.P.No.2025 of 2016

Sreedhar

...Petitioner

Vs.

State by Inspector of Police,
Meensuritty Police Station,
Ariyalur District.
(Crime No 13/2008)

...Respondent

Prayer:- Revision is filed under Sections 397 and 401 Cr.P.C., to set aside the order of dismissal passed by the Learned III Additional Sessions Judge, Salem, passed in Crl.M.P.No.375 of 2015 in S.C.No.138 of 2013 by order dated 06.02.2016.

For Petitioner : Mr.B.Nambiselvan

For Respondents: Mr.R.Sekar

Government Advocate (Crl. Side)

O R D E R

This revision case has been filed against the order passed by the learned III Additional Sessions Judge, Salem, in Crl.MP.No.375 of 2015 in S.C.No.138 of 2013 dated 06.02.2016.

2.The short facts which are required to be noticed for disposal of this case is that, the petitioner is one of the accused /A15 in Crime No.130 of 2008 on the file of the respondent Police, where charges had been framed against the accused persons for the offences punishable under Sections 147, 148, 341, 324, 326, 307 and 302 read with 120B of IPC.

3.When the trial is pending before the Court below, the petitioner/A15 filed a petition to discharge him from the charges. The petition, after having been considered, was dismissed by the trial Court on 06.02.2016, against which, the present revision has been filed.

4.I have heard Mr.B.Nambiselvan, learned counsel appearing for the petitioner as well as Mr.R.Sekar, learned Government Advocate (Criminal Side) appearing for the respondent/State.

5.The learned Government Advocate (Criminal Side) by relying upon the averment made in the affidavit filed by the respondent police would state that in the incident, there were five murders. In respect of each of the accused persons, there has been specific overt act and based on which, a detailed investigation was done and a report has been filed. He would further state that there are eye witnesses, who had given statements about the involvement of this petitioner/accused, especially, in criminal conspiracy to execute the murder by all the accused persons. The learned Government Advocate would rely upon Paras 6 to 8 of the counter affidavit, which reads thus:

"6.It is submitted that the eye witness L.A.24-Janaki, W/o.Kasinathan, L.W.25-Jeyakodi, and L.W.26-Kasiammal in their 161 statements had clearly stated that two months prior to the date of occurrence, they had seen the petitioner/accused (A15) conspiring along with other accused persons to eliminate the family members of Kasinathan.

7.It is submitted that L.W.24-Janaki, W/o.Kasinathan, had stated in her 161 CrPC. statement that she had seen the petitioner/accused (A15) at the place of occurrence armed with deadly weapons along with other accused persons chasing Rajalingam and Mahalingam, two among the deceased persons.

8.It is submitted that L.W.27-Palani, S/O.Kodivanam, L.W.28-Thanigachalam in the 161 CrPC statement had specifically stated about the presence of petitioner/accused (A15) during conspiracy and at the place of occurrence armed with deadly weapons along with other accused persons chasing the deceased persons."

6.Therefore, the learned Government Advocate (Criminal Side) appearing for the respondent/State would state that, this is not the stage to decide the involvement of the petitioner/accused in the said crime, in view of the strong evidence, available with the prosecution against the petitioner. He would also state that though the petitioner said that he has been implicated in this case, on that ground, he cannot seek for any discharge.

7.However, the learned counsel appearing for the petitioner would state that initially, only eight accused were implicated in this case and subsequently, some more accused have been added including the petitioner/A15. Insofar as the petitioner/accused is concerned, there is no direct involvement for the alleged crime and only for the purpose of investigation, some statements

had been obtained from the victim side and based on which, he has been implicated and therefore, the learned counsel appearing for the petitioner would state that he would be entitled for discharge from the charges.

8.I have considered the said submissions made by both sides and perused the materials placed before this Court.

9.This is the case of series of murder of five persons actually, and three persons are seriously injured. Charges have been framed against all these accused persons for the alleged offences punishable under Sections 147, 148, 341, 324, 326, 307 and 302 read with 120B of IPC. Since the case is of the year 2008 and had been pending for all long, whether there is any involvement of the petitioner in the crime and if so to what extent, cannot be decided at this stage, as the crime is very serious in nature. Therefore, at this stage, the plea of the petitioner that he has not involved in the crime, cannot be accepted. As has been rightly pointed out by the learned Government Advocate (Criminal Side) appearing for the respondent/State, there are certain evidences available with the prosecution, which shows the finger on the petitioner also.

Therefore, the involvement or otherwise on the part of the petitioner in the crime, can be decided only after the full fledged trial. Therefore, the request of the petitioner to discharge him from the charges cannot be entertained. In view of these circumstances, this Court finds no infirmity or illegality in the impugned order. Therefore, the Criminal Revision Case fails. Accordingly, the same is dismissed. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

mps

To

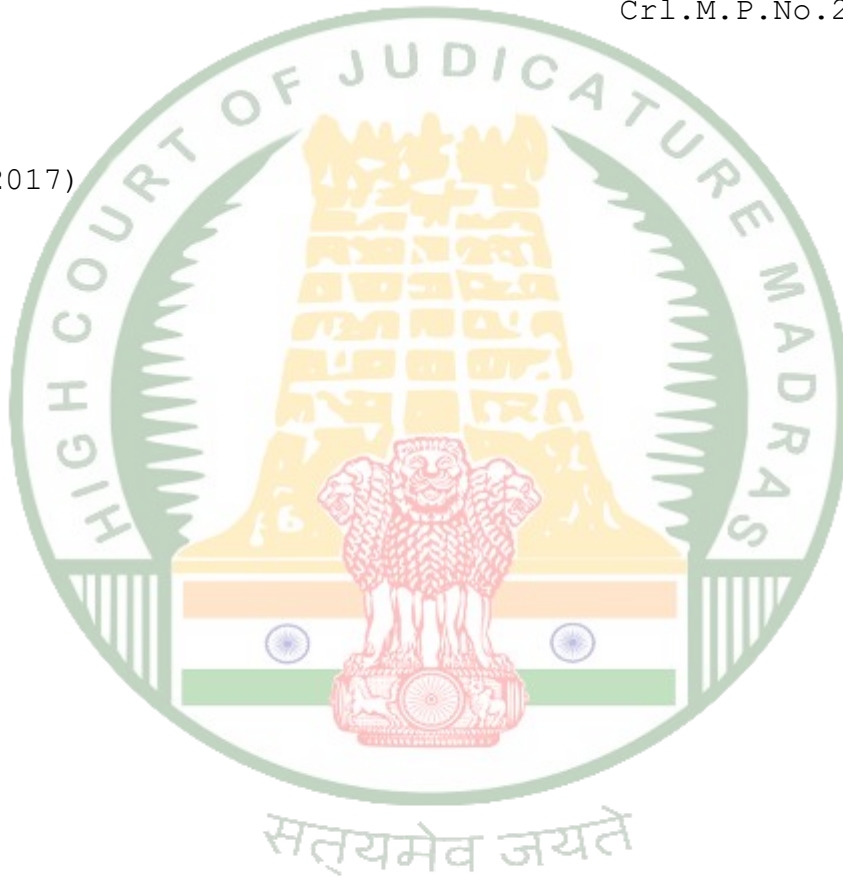
1. The III Additional Sessions Judge, Salem.
2. The Inspector of Police, Meensuritty Police Station, Ariyalur District.

3. The Public Prosecutor
High Court, Madras.

+1 Cc to Mr.B. Nambiselvan, Advocate sr 67202

Crl.R.C.No.303 of 2016
and
Crl.M.P.No.2025 of 2016

GJ(CO)
SP(14/11/2017)



WEB COPY