

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.511 of 2016

Elumalai

... Petitioner

Vs

1. The State rep by its
The Inspector of Police,
Central Crime Branch Team No.II,
Egmore, Chennai

2. Vijayakumar

... Respondents

Prayer:- Criminal Revision filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order dated 10.03.2015 in C.M.P.No.5018 of 2015 in C.C.No.314 of 2012 on the file of Judicial Magistrate No.1, Poonamallee.

For petitioner : Mr.T.Palanivel

For Respondents : Mr.R.Ravichandran,
Govt.Advocate (Crl.Side) for R1
Mr.V.Raghupathi for R2

O R D E R

This revision is filed challenging the order dated 10.03.2015 in Crl.M.P.No.5018 of 2015 in C.C.No.314 of 2012 on the file of Judicial Magistrate No.1, Poonamallee and to set aside the same.

2. Totally, there are four accused and the petitioner is A1 in the criminal case registered by the respondent-Police for the offences under Sections 406, 420 r/w 34 of IPC, which was altered to under Sections 406, 420 r/w 34, 465, 466, 468, 471

and 474 of IPC. After investigation, final report has been filed and Court has taken cognizance and summons were also issued to the petitioner/accused. Thereafter, the petitioner filed a petition to discharge him from all the charges, the Court below dismissed the same. Challenging the above dismissal order, present revision petition has been filed.

3. The case of the prosecution is as follows:-

The de-facto complainant is the owner of the property situated at Iyappanthangal in Survey No.288 and petitioner and other accused fraudulently induced the de-facto complainant to hand over his house property documents situated at Iyappanthangal Survey No:288 in order to obtain loan from Co-operative Bank, Saidapet for purchase of important machinery to their industry. Thereafter, they mortgaged the property for a sum of Rs.8,80,000/- and obtained loan from the Bank, thereafter, they neither paid the amount to the de-facto complainant nor deposited the amount in the company account for making the de-facto complainant as a share-holder as promised by the accused. Under these circumstances, the de-facto complainant gave a complaint to the respondent/police. After investigation, the respondent-Police filed a final report for the aforesaid offences, and charges have also been framed by the Court below. Thereafter, the present application has been filed by A1 on the ground that it is only the de-facto complainant who wantonly gave the property as a collateral security for the loan obtained by the company, in which he is also a partner and they had no intention to cheat the de-facto complainant. The Court below, after considering the entire materials available on record, came to a conclusion that there are materials available on record to show prima facie case against the petitioner.

4. Heard the learned counsel for the petitioner, the learned Government Advocate (Crl side) appearing for the first respondent and the learned counsel appearing for the second respondent.

5. The case of the prosecution is that the petitioner/accused has mortgaged the defacto complainant's house and obtained bank loan to induct him as a partner. But he failed to do so and also no amount has been paid to the petitioner. Hence he committed the offence. On a perusal of records there are materials available on record to show prima facie case against the petitioner. Considering all the above materials came to a conclusion that there is a prima facie case made against

the petitioner to proceed with a trial and I find no illegality or irregularity in the order passed by the Court below. I find no merits in this revision. Accordingly this Criminal Revision Petition is dismissed. The trial Court directed to complete the trial within 3 months from the date of receipt of the order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Judicial Magistrate No.1, Poonamallee.
2. The Inspector of Police,
Central Crime Branch Team No.II,
Egmore, Chennai
3. The Public Prosecutor, High Court, Madras.

+1cc to M/s.K.Myilsamy, Advocate, S.R.No.26127

+1cc to M/s.V.Raghupathi, Advocate, S.R.No.26220

Cr1.R.C.No.511 of 2016

MP (CO)
CS/09/06/17

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