

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

CrI.RC.No.567 of 2012
and MP No.1 of 2012

P.Ponnaiyan

... Petitioner

Vs

State By
Sub Inspector of Police,
Chitode Police Station,
Erode.
Crime No.293/2001

... Respondent

Prayer:- This Criminal revision petition has been filed under Section 397 & 401 of Cr.P.C., to set aside the order passed in C.M.P.No.1125 of 2012 in C.C.No.133 of 2007 on the file of the Chief Judicial Magistrate, Erode dated 25.04.2012 and permit the Addl. Public Prosecutor to withdraw the above case in the Cr. No.293 of 2001 of Chitode P.S. And C.C.No.133 of 2007 on the file of the Chief Judicial Magistrate, Erode.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mrs.M.F.Shabana
Government Advocate
(Criminal Side)

ORDER

The respondent herein filed petition in C.M.P.No.1125 of 2012 under Section 321 Cr.P.C. on the file of the Chief Judicial Magistrate, Erode, seeking to withdraw the Criminal case filed against the petitioner, which is pending in CC No.133 of 2007 on the file of the Chief Judicial Magistrate, Erode and the said CrI MP was dismissed, against which this Revision petition is filed.

2. The Case of the Petitioner in brief as follows:

The petitioner is working as a Helper in the Tamil Nadu Electricity Board. Earlier, a case was registered in Crime No.293 of 2001, based on a complaint lodged by Junior Engineer, TNEB, for alleged offences under Section 420, 467, 468 IPC, on the allegation that the petitioner produced a forged School record sheet, as if it was issued by the Panchayat Middle School at Anandampalayam and joined the duty in Electricity Board as a Helper. After investigation, the Charge Sheet was filed, which was taken on file in CC. No.133 of 2007 on the file of the Chief Judicial Magistrate, Erode. Like the petitioner, several employees working in Tamil Nadu Electricity Board were also charged with similar allegations and the Criminal cases were pending. All the above issues were referred to Justice Khalid Commission, and based on the recommendation of Justice Khalid Commission, the Tamil Nadu Electricity Board decided to withdraw the Criminal Cases filed against those persons and to that effect, the Electricity Board also issued Board proceedings, vide Per.B.P.(F.B.) No.27 (Administrative Branch) dated 07.11.2002. Subsequently, when the disciplinary proceedings were initiated by the Electricity Board, a batch of Writ Petitions were filed before this Court and a Division Bench of this Court, in Writ Appeal No.2454 of 2002, etc. dated 18.12.2002 considering the Board proceedings directed concern Superintendent Engineer to decide the issues. Considering the above Court proceedings, the Superintending Engineer considered the issue and made a request to withdraw the complaint based on the same, the Public Prosecutor filed an application under Section 321 Cr.P.C. to withdraw the complaint filed against the petitioner. The learned Chief Judicial Magistrate, dismissed the petition holding that no public purpose would be served by permitting to withdraw the complaint. Challenging the same the present Revision Petition is filed.

3. The learned counsel appearing for the petitioner would submit that complaint has been sought to be withdrawn only based on the Electricity Board proceedings, in which, number of other employees were charged with the similar charge and the Public Prosecutor being fully satisfied, has sought to withdraw the complaint under Section 321 Cr.P.C. But the learned Chief Judicial Magistrate, without considering the same, has mechanically dismissed the application holding that no public purpose would be served.

4. The learned Government Advocate would submit that the above application has been dismissed, on the ground that the offence is very serious in nature and no public purpose would be served by granting leave to withdraw the prosecution.

5. I have considered the rival submissions as rightly submitted by the learned counsel by the petitioner, based on Justice Khalid Commission's recommendations the complainant sought to withdraw the prosecution. Similarly, in respect of all the other employees placed like that of the petitioner, the Electricity Board issued proceedings referred to above and sought to withdraw the prosecution. Considering the Division Bench Judgment of this Court referred above and also considering the Board's proceedings, and being satisfied, the complainant filed application seeking to withdraw the Criminal Case. But the Court below dismissed the application on the ground that no public purpose would be served. In the above circumstances, the impugned order passed by the Court below is liable to be interfered with and hence the impugned order passed by the Court below is set aside. Accordingly, the Revision Petition is allowed and the learned Chief Judicial Magistrate, Erode is directed to permit the complainant to withdraw the prosecution in CC No.133 of 2007. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

To

1. The Chief Judicial Magistrate,
Erode

2. The Public Prosecutor,
High Court , Madras.

3. The Sub Inspector of Police,
Chitode Police Station,
Erode.

+lcc to Mr.Doraisamy, Advocate, S.R.No.836

MP(CO)
RS(01/02/2017)

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