



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.07.2017
CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

WEB COPY

Cr1.R.C(MD)No.229 of 2016
and
Cr1 MP(MD)No.3045 of 2016

Mohamed Hanifa

.. Petitioner

Vs.

The State through the Additional Superintendent of Police,
Special Investigation Division,
CBCID, Coimbatore,
Crime No.240 of 2013
on the file of Batlagundu Police Station,
Dindigul District.

.. Respondent

Criminal Revision Case is filed under Section 397 r/w 401 of Cr.P.C praying to set aside the dismissal order dated 02.02.2016 passed in Cr.M.P.No.2113 of 2015 in S.C.No.131 of 2014 by the Principal Sessions Judge, Dindigul.

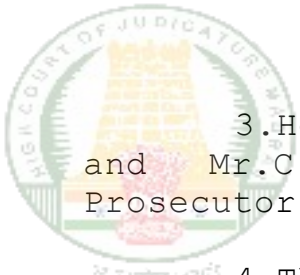
For Petitioner : Mr.S.M.A.Jinnah

For Respondent : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor.

ORDER

This Criminal Revision Case has been preferred against the order of dismissal passed in Cr.M.P.No.2113 of 2015 in S.C.No.131 of 2014, dated 02.02.2016 by the Principal Sessions Judge, Dindigul.

2.The Deputy Superintendent of Police, CBCID, has lodged a complaint and based on which a case has been registered against the petitioner herein in Crime No.240 of 2013 under Sections 353, 307, 153(A) IPC and Section 16(i) (b) of Unlawful Activities (Prevention) Act, 1967 and Section 4(a)(i) & 4(b)(ii) of Explosive Substances Act, 1908. After completing investigation, final report has been filed and the same has been taken on file in S.C.No.131 of 2014. During the pendency of S.C.No.131 of 2014, the petitioner herein has filed a petition under Section 227 of Cr.P.C., praying to discharge him from the purview of the above said proceedings. The Court below has dismissed the petition. Challenging the order of dismissal, the present Criminal Revision Case has been preferred.



3. Heard Mr.S.M.A.Jinnah, learned counsel for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondent.

4. The learned counsel for the petitioner submitted that the Court below without considering the material available on record has dismissed the discharge petition filed by the petitioner. It is also submitted that the respondent has filed unnecessary documents which are irrelevant to the alleged occurrence.

5. Per contra, the learned Additional Public Prosecutor has contended to the effect that the petitioner has already been remanded in another case in Crime No.237 of 2011, wherein non bailable warrant is pending against him, while executing the NBW, the occurrence had taken place.

6. It is a settled principle of law that at the time of framing of charges, the Court has to see whether any *prima facie* materials is available against the accused to proceed with and at the time of framing charges, the Court cannot go into the question as to whether the charges levelled against the petitioner are true or false and the Court cannot conduct a roving enquiry. I find that there are materials available on record to show that *prima facie* case against the accused and the allegations are very serious in nature.

7. The learned Additional Public Prosecutor has produced a copy of statement of the Deputy Superintendant of Police, recorded under Section 161(3) Cr.P.C., wherein it has been stated that the petitioner is an accused in another criminal case, in which, non bailable warrant is pending as against him. When the police officials tried to execute warrant, the petitioner has attacked the police official with dangerous weapon, whereby committed the offence.

8. In view of the fact that the Court below after considering the fact that the petitioner/accused has attacked the police official with dangerous weapon has rightly dismissed the petition. Under the said circumstances, I find no illegality or infirmity in the order passed by the Court below and therefore, the same is liable to be dismissed.

9. In fine, this Criminal Revision Case is dismissed. Consequently, CrI MP(MD)No.3045 of 2016 is closed.

Sd/-

Assistant Registrar(CS-I)



To

1.The Principal Sessions Judge, Dindigul.

2.The State through the Additional Superintendent of Police,
Special Investigation Division,
CBCID, Coimbatore,
Crime No.240 of 2013
on the file of Batlagundu Police Station,
Dindigul District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

MJ

VB/SV/SAR3/18.07.2017/3P/4C

Crl.R.C (MD) No.229 of 2016
05.07.2017