

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on :25.04.2018

Orders Pronounced on:24..07.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.450 of 2018
and
Crl.M.P.No.5474 of 2018

S.Siva ...Revision Petitioner/Accused

Vs.

The Inspector of Police,
CCB-Vth division Police Station,
Commissioner of Police, Wing,
Vepary-Chennai ...Respondent/Complainant

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records of relating to the discharge petition CMP No.733 of 2018 in CC No.1275 of 2017 order dated 27.03.2018 on the file of Judicial Magistrate Court at Alandur, Chennai and set aside the same and allow the revision pending on this file.

For Petitioner : Mr.S.Siva, Party-in-person

For Respondent : Mr.R.Surya Prakash
Government Advocate (crl.side)

O R D E R

This Criminal Revision has been filed against in Crl.M.P.No.733 of 2018 in C.C.No.1275 of 2017 dated 27.03.2018 on the file of Judicial Magistrate Court at Alandur, Chennai and set aside the same.

2. The party has appeared-in-person

3. The revision petitioner is the accused in C.C.No.1275 of 2017 facing charge under Section 420, 465, 467, 468 read with 417 of I.P.C. Pending trial, he filed in C.M.P.No.753 of 2018 under Section 239 of Cr.P.C to discharge and after enquiry, the petition was dismissed on 27.03.2018, hence, the revision.

4. The petitioner-in-person contended that the impugned order that has been now sought to be put against him is not fabricated by him in the absence of any signature on the seizure Mahazar either by the Judge of the High Court or by the Government Pleader or without seal of the High Court and hence, the trial cannot proceed and the witnesses are given evidence only on presumption and assumption and hence, sought for discharge.

5. The respondent-police have filed written objections narrating chequered history behind the case.

i) One Tmt.Ambika-wife of the revision petitioner has lodged a complaint before the Pallikaranai PS., stating that on 07.07.2007 at about 10.30 a.m., the revision petitioner trespassed the complainant's house (who stayed with her parents) and abused her with filthy language and assaulted her further threatened her to give the gold jewels wore by the defacto-complainant (in that case) otherwise he will do away the life of the complainant. Hence, a complaint.

ii) On the complaint of Tmt.Ambika, a case in Pallikaranai PS., Crime No.1109 of 2007 under Sections 448, 323, 294(b), 506(i), 384 r/w 511 I.P.C was registered on 07.07.2007. After completion of the investigation, the case was charge sheeted against the revision petitioner/accused under Sections 448, 294(b), 323, 506(i), 384 r/w 511 IPC and taken on file by the Judicial Magistrate, Alandur as C.C.No.916 of 2007.

iii) Pending trial, the revision petitioner approached this Court in Crl.O.P.No.24171 of 2016 praying to issue suitable direction to Judicial Magistrate, Alandur, Chennai to take the copy application No.15318 of 2016 in C.C.No.916 of 2007. The same was dismissed on 26.08.2016 with an following observation that:

"5. Smelling something fishy in the matter, this Court called for a report from the Judicial Magistrate, Alandur. In response, the Judicial Magistrate, Alandur sent a report dated 26.07.2016 stating that she had thoroughly checked the entire case records and the Court records, including the C.M.P register and found that C.M.P.no.9600 of 2009 was never filed in the Court and that the last C.M.P.number for the year 2009 was C.M.P.No.5493 of 2009. In the report, it is further stated that even in the "A" diary and calendar case register, there is no reference to C.M.P.No.9600 of 2009.

6. On the strength of the aforesaid report submitted by the Judicial Magistrate, Alandur, this Court dismissed CrI.O.P.No.15110 of 2016 on 26.08.2016, with a direction to the Judicial Magistrate, Alandur to proceed with the trial in C.C.No.916 of 2007.

iv) During the course of argument, Siva reiterated his stand and produced the discharge petition, the affidavit filed accompanying the said petition and the order dated 15.09.2009 purported to have been passed in the discharge petition by the Judicial Magistrate, Alandur. Siva contended that earlier, in CrI.O.P.No.15110 of 2016, he had filed only the photocopy of the record, but, today, he has brought the original and submitted the same in the open Court.

v) This Court received those papers and found that an order dated 15.09.2009 has been typed in Tamil and there is a signature in green ink showing, as if it has been passed by the Judicial Magistrate, Alandur. This Court posed a question to Siva i.e., if the order produced by him is the original order, then, how did he get possession of it from the Court? Siva had no satisfactory answer for the said question.

vi) The Judicial Magistrate, Alandur, in the report dated 26.07.2016, has clearly stated that no discharge application was ever filed in C.C.No.916 of 2007 and no discharge order has ever been passed. While so, it is indeed shocking to note that Siva is submitting a document to this Court as if he has been discharged from the prosecution in C.C.No.916 of 2007. Hence, it becomes imperative for an enquiry to be conducted on the document dated 15.09.2009.

6. To sum up, the case of the prosecution is that initially, a complaint has been lodged by the wife of the revision petitioner herein for alleged offence under Sections 448, 294(b), 323, 506(i), 384 r/w 511 OPC in C.C.No.916 of 2017, it appears that he has filed CrI.O.P.No.24171 of 2016 when the matter was taken up, it appears that he has produced the order copy perpetuate to have been passed by the learned Judicial Magistrate, Alandur whereby, he has alleged to have been dated 15.09.2009 wherein he has alleged to have discharged from the case itself and it appears that he has produced original order copy before the High Court. When the matter was heard by brother Hon'ble Thiru.Justice P.N.Prakash in CrI.O.P.No.24171 of 2016, dated 08.11.2016 after going through the same, alleged to be original order copy produced by the revision petitioner in the open Court the brother Hon'ble Thiru.Justice P.N.Prakash has entertained a doubt as to the genuineness and after detailed enquiry, it appears that the same was found to be forged one. Accordingly, as directed by the learned Judicial Magistrate to

verify the genuineness after detailed enquiry in the Office of the Judicial Magistrate and to take necessary action in accordance with law. It appears that the learned Judicial Magistrate, Alandur after going through the office records has found that the copy produced by the revision petitioner herein is a fabricated and forged document and produced before the High Court in CrI.O.P.No.24171 of 2016 to make it appear as if he has already discharged from the case and hence, the Head Clerk of the Judicial Magistrate Court, Alandur filed a complaint before the Police and the same was registered as a Crime No.171 of 2016 and after investigation, the case has been posted and pending trial.

7. After going through the records and also statement of witnesses of L.W.1, (Head Clerk) L.W.2 (Head Clerk Judicial Magistrate, Former Head Clerk of the Alandur Judicial Magistrate Court)and Mr.Ramanathan, Former Judicial Magistrate in the Additional District and Sessions Judge, Chengalpattu, I am of the considered view that there is sufficient materials available on record to proceed against the petitioner and hence, the order passed by the learned Judicial Magistrate, Alandur does not warrant any interference by me in this criminal revision and accordingly, this criminal revision petition is dismissed.

8. After the judgment was reserved, he again moved the written argument in the open Court and submitted that he has been acquitted in the main case C.C.No.916 of 2016 after due trial.

9. However, the present case is prosecution for the fabricated and forged document namely a judicial order perpetuate to have been passed by the learned Judicial Magistrate, Alandur and produced before the High Court as if it is a true and genuine and hence contentions now raised is not sustainable in law.

10. In view of the nature and gravity of the offence, I am not inclined to accept the said contention.

11. Accordingly, this Criminal Revision Petition is dismissed and the learned Judicial Magistrate, Alandur is hereby directed to dispose the case within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate Court at Alandur, Chennai.

2.do through the Chief Judicial Magistrate Chennai.

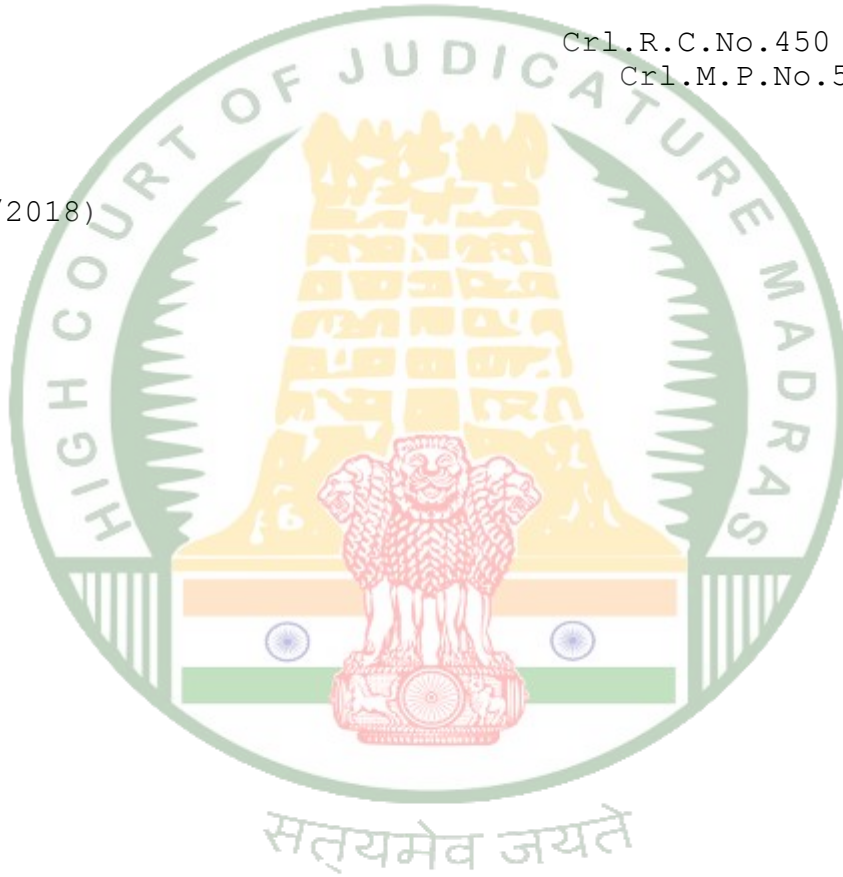
3.The Inspector of Police, CCB Vth Division Police Station
Commissioner of Police, Wing, Vepery Chennai.

4.The Public Prosecutor High Court Madras.

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NM(CO)

GSP(10/08/2018)



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