

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.855 of 2018
and
Crl.M.P.No.9818 of 2018

K.Vijayakumar ...Petitioner /Accused no.2

...Vs...

State rep.by Inspector of Police,
Erode North Police Station,
Crime No.909 of 2006,
Erode District.

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 02.07.2018 made in C.M.P.No.2464 of 2017 in C.C.No.428 of 2013 on the file of the learned Chief Judicial Magistrate, Erode, set aside the same.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.R.Surya Prakash
Govt.Advocate (Crl.side)

O R D E R

The A2/Vijayakumar in C.C.No.428 of 2013 filed in Crl.M.P.No.2464 of 2017 for discharging from the case. The said petition was dismissed by the learned Chief Judicial Magistrate, Erode and hence, this revision.

2. The case of the prosecution is that A1,A2,A3 have fabricated a document as if the L.W.1/defacto-complainant has executed the sale deed. On a complaint given by the defacto-complainant, F.I.R was registered and after investigation, final report has been filed.

3. After hearing the enquiry in the Criminal Miscellaneous Petition, the learned Chief Judicial Magistrate, Erode dismissed the application for discharge by relying upon the decision reported in 2010 Crl.J.L.3240 [K.Selvam vs.State]

to the effect that once charge is framed discharge petition cannot be entertained. As against the said finding, the learned counsel for the petitioner would submit that since after serving the copies within 3 days, charges have been framed and hence, he has no time to file discharge petition.

4. Heard the learned Government Advocate (crl.side)

5. Taking into consideration of the factual position that charges have already been framed, liberty is given to the petitioner to agitate his claim by challenging the framing of the charge or charge sheet, as he may be so advised before the forum by filing appropriate application.

6. With these observations, this Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar(Audit)

//True copy//

Sub Assistant Registrar

nvi

To

1.The Chief Judicial Magistrate,
Erode

2. The Inspector of Police,
Erode North Police Station,
Crime No.909 of 2006,
Erode District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Manoharan, Advocate SR.No.50144

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VGII(CO)
GN(09/08/2018)