IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.09.2018

Pronounced on : 11.10.2018

CORAM:
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.404 of 2015 and
M.P.No.1 of 2015

1. C. Perumal
2. P.Nachimuthu
3. R.Loganathan ...Petitioners

Vs.

State by:
The Sub Inspector of Police,
V-4, Rajamangalam Police Station (Law & Order)
Chennai. (Crime.No.9/2013) ...Respondent

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed by the learned X Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.1226 of 2014 in C.C.No.8644 of 2014 dated 16.04.2015.

For Petitioners : Mr.N.Seshadri

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl.Side)

O R D E R

The criminal revision has been filed against the order of dismissal of discharge petition dated 16.04.2015 made by the learned X Metropolitan Magistrate, Egmore, Chennai, in Crl.M.P.No.1226 of 2014 in C.C.No.8644 of 2014.

2 The respondent police has filed a case in Crime. No.9 of 2013, based on the complaint given by the defacto complainant. After detailed investigation, the respondent police has laid charge sheet against the petitioners/accused for the offences punishable under Sections 341 and 506 (ii) of IPC, before the learned X Metropolitan Magistrate, Egmore, Chennai, which was taken on file in C.C.No.8644 of 2014. Pending the above case, the petitioners/accused had filed a miscellaneous petition in Crl.M.P.No.1226 of 2014 under Section 239 of Cr.P.C., seeking discharge.

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3 The learned Magistrate, after giving due opportunities to both the parties, had dismissed the petition by order dated 16.04.2015, by observing that there is prima facie allegation made out against the petitioners to frame charge under Section 341 and 506 (ii) of I.P.C, against which, present revision has been preferred by the accused.

4 The learned counsel for the petitioners would submit that the petitioners and father of the defacto complainant one I.V.S.Manian are close relatives. The petitioners 1 & 2 gave money to the said I.V.S.Manian to the tune of Rs.5,00,000/- and when they demanded the same, the said I.V.S.Manian, developed enemity. Hence the said I.V.S.Manian insisted the defacto complainant to file a complaint against the petitioners. Further in the complaint, it was stated that the alleged occurrence took place on 23.04.2012, whereas, some of the witnesses had stated that the alleged occurrence had taken place on 23.04.2014, which itself shows that the case is cooked up one and it is not sustainable either in law or in facts. Therefore, the petitioners filed a petition under Section 239 of Cr.P.C., seeking discharge. The learned Magistrate had failed to consider the above facts and erroneously dismissed the petition, without recording any valid reason, which warrants interference.

5 The learned Government Advocate (Crl.Side) appearing for the respondent Police would submit that there is enough materials to proceed the case further against the petitioners/accused. It is well settled law that, at the time of deciding petition, seeking discharge, the Court has to see whether prima facie materials are available and the statements recorded from the witnesses had any prima facie allegations against the accused. In the present case, the learned Magistrate found that there are prima facie allegations against the petitioners/accused and hence dismissed the petition, seeking discharge, and there is no reason to interfere with the same. The petitioners/accused shall defend the case on merits at the time of trial.

6 Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on record.

7 The defacto complainant filed a complaint before the respondent police, making some allegations against the petitioners/accused and hence a case was registered against the petitioners in Crime No.9 of 2013 for the offences under Sections 341 and 506 (ii) of IPC and after investigation, the respondent police had filed a final report before the learned X Metropolitan Magistrate, Egmore, Chennai. The learned

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Magistrate, after cognizance, taken the same on file in C.C.No.8644 of 2014. A perusal of the complaint, charge sheet and the statements recorded from the witnesses, would reveal that there is prima facie case against the accused to proceed further. The Magistrate also found that there is prima facie allegations made out against the petitioners/accused, from the documents available and hence dismissed the petition, filed by the petitioners/accused, seeking discharge.

8 This Court has carefully gone through the order dated 16.04.2015 made by the Court below in Crl.M.P.No.1226 of 2014. It is well settled propositions of law that when there is prima facie allegation made out against the accused to proceed the case, the Court need not give any reason to dismiss the petition, seeking discharge and reason has to be given only for discharging the accused. Hence this Court does not find any illegality or infirmity in the order passed by the Court below.

9 Further, it is settled proposition of law that while considering petition, seeking discharge, the Court has to see the complaint and the documents filed by the prosecution under Section 173 of Cr.P.C. and not defence of the accused. In this case, a perusal of the documents produced by the prosecution, would go to show that there is much enough material to frame charge against the accused. The probative value of the materials need not be gone into at this stage and the same cane be done only after trial.

10 In the result, the criminal revision is dismissed as there is no illegality or infirmity in the order passed by the Court below, and the Court below is directed to proceed with the case further, in accordance with law and dispose of the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1. The X Metropolitan Magistrate, Egmore, Chennai

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2. The Public Prosecutor, High Court of Madras.

+1cc to Mr.K.P.Chandrasekaran, Advocate SR.No.70507

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GMR(CO)

GMY(30/10/2018)

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