

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2018

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.R.C.No.1703 of 2011

and

M.P.No.1 of 2011

R.Duraisamy

...Petitioner/Petitioner

..Vs..

State Rep.by
Inspector of Police,
J.J.Nagar Police Station,
Chennai.

...Respondent/Respondent

Cr.No.1039 of 2010

Criminal Revision case filed under Section 397 & 401 of Cr.P.C. to call for the records pertaining to the order made in Crl.M.P.No.63 of 2011 in S.C.No.98 of 2011 dated 29.10.2011 by the learned Addl. District and Sessions Judge (Fast Track Court No.I, Poonamallee) and set aside the same.

For Petitioner : Ms.M.Kalyani

For Respondent : Ms.S.Thankira
Government Advocate (Crl.Side)

O R D E R

The petitioner in this Criminal Revision Petition is A-2 in S.C.No.98 of 2011, on the file of the Additional District and Sessions Court [Fast Track Court No.I, Poonamallee].

2.The respondent police filed a Final Report against the petitioner and his son, who is arrayed as A-1 in the above case, for an offence under Section 332, 323, 336, 294(b), 307, 506(ii) IPC r/w Sec.4 of TNPWH Act.

3.After filing of the Final Report both the accused persons filed Crl.M.P.Nos.62 and 63 of 2011 seeking for discharge under Section 227 Cr.PC. The Court below dismissed the discharge petition by an order dated 29.10.2011. Aggrieved by the same, the petitioner has filed the present Criminal Revision Petition before this Court.

4.The learned counsel for the petitioner would submit that the Police have been targeting the petitioner and his son for a very long time by foisting case against them. Is the further submission of the learned counsel for the petitioner that the petitioner was a Divisional Engineer working at BSNL and there was no reason for the petitioner and his son to indulge in criminal activities. The entire case has been foisted only to harass the petitioner and his son. The learned counsel would further submit that there are sufficient materials to prove that the alleged incident itself did not take place and the entire case is false.

5.The Court at the time of taking cognizance of Final Report is only supposed to look at the Final Report, 161 Statements and other materials filed along with the Final Report. At the time of applying its mind for taking cognizance of a Final Report, the Court cannot look into any materials that are placed by the accused persons. The test to be applied by the Court at the time of taking cognizance of a Final Report is whether on the materials placed before it, there is a strong suspicion that an offence has taken place and the Court need not be satisfied that ultimately the case will end up in acquittal.

6.The Court below has considered the Final Report and also the 161 Statement and has prima facie come to the conclusion that an offence has been made out by the prosecution and therefore the accused persons cannot be discharged at that point of time.

7.This Court does not find any illegality or perversity in the order passed by the Court below. The petitioner is at liberty to raise all the issues and place all the materials during the course of trial in order to prove his defence. Any observation that was made in the order dismissing the discharge petition and the present order passed in the Criminal Revision, will not have any bearing when the Court below ultimately consider the case on merits based on the oral and documentary evidence.

8.The F.I.R in this case is of the year 2010 and the Final Report is of the year 2011. Therefore, this Court directs the learned Additional District and Sessions Judge, F.T.C.No.I, Poonamallee to dispose of S.C.No.98 of 2011 within a period of three months from the date of receipt of a copy of this order, and the accused persons as well as the prosecution must cooperate to ensure that the case is completed within the time stipulated by this Court.

9.With the above directions, this Criminal Revision Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

Kp

To

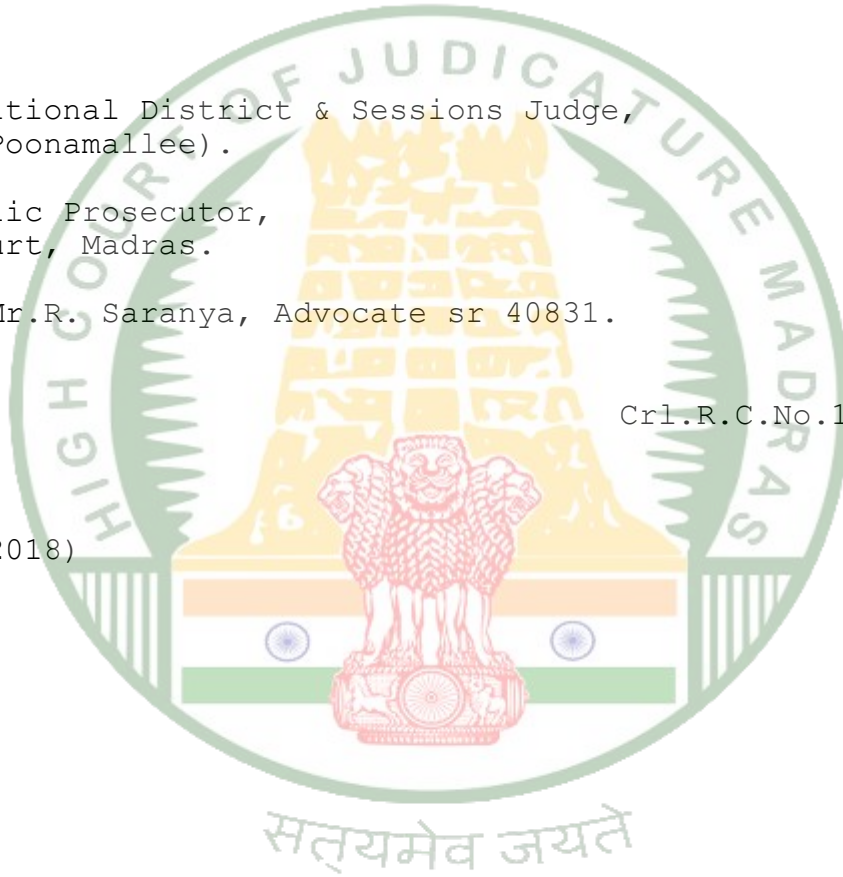
1.The Additional District & Sessions Judge,
(FTC.I, Poonamallee).

2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.R. Saranya, Advocate sr 40831.

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SP(06/07/2018)



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