

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1218 of 2015 and
M.P.No.1 of 2015

Sivakumar

...Petitioner

Vs.

State represented by
The Inspector of Police,
B-9, Saravanampatti Police Station,
Coimbatore City.
Crime No.1144/2011

...Respondent

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order dated 16.06.2015 dismissing the petition filed under Section 239 of Cr.P.C. in Crl.M.P.No.4889 of 2012 in C.C.No.127 of 2012 made by the learned Judicial Magistrate II, Coimbatore.

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

O R D E R

This revision has been filed against the order of dismissal of discharge petition in Crl.M.P.No.4889 of 2012 in C.C.No.127 of 2012 dated 16.06.2015 made by the learned Judicial Magistrate II, Coimbatore.

2 The learned counsel for the petitioner/accused would submit that there was no ingredient to file charges under Sections 294 (b), 353 & 506 (i) IPC against the petitioner/accused. The Court below failed to consider the materials placed before the Court and erroneously dismissed the petition filed under Section 239 of Cr.P.C. by the petitioner/accused, which warrants interference of this Court.

3 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that incriminating statements are against the petitioner/accused and at this stage,

the Court need not look into defence taken by the accused, since the Court only framing the charges and not convicted the accused.

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

5 This Court has carefully gone through the order dated 16.06.2015 made in Crl.M.P.No.4889 of 2012 in C.C.No.127 of 2012 by the learned Judicial Magistrate II, Coimbatore. On a perusal of the FIR, Charge Sheet and 161 statement recorded from defacto complainant would clearly reveal that there are prima facie allegations made out against the accused to frame charges under Sections 294 (b), 353 & 506 (i) IPC.

6 It is well settled propositions of law, while deciding petition filed under Section 239 of Cr.P.C. seeking discharge, the Court has to look into the materials available in the documents produced by the prosecution under Section 173 of Cr.P.C and need not look into the defence taken by the accused. Hence this Court does not find any illegality or infirmity in the order passed by the Court below.

7 In the result, the criminal revision is dismissed. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate II, Coimbatore.
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police, B-9,
Saravanampatti Police Station,
Coimbatore City.

+ 1 cc to Mr. H. Rajasekar, Advocate Sr.59143

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CP(CO)
EU(14/09/2018)