

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.372 of 2015 and
M.P.No.1 of 2015

M.Latchumanan

...Petitioner/Accused

Vs.

State rep. by
The Station House Officer,
CID Police Station,
Puducherry.

... Respondent/Complainant

Prayer: The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to set aside the order dated 12.11.2013 made in Crl.M.P.No.1559/2011 in C.C.No.215/2010 passed by the learned Chief Judicial Magistrate, Pondicherry.

For Petitioner : Mr.M.Shahjahan

For Respondent : Ms.S.Devie

Govt. Advocate (Pondicherry)

ORDER

This criminal revision has been filed against the order dated 12.11.2013 made in Crl.M.P.No.1559/2011 in C.C.No.215/2010 by the learned Chief Judicial Magistrate, Pondicherry.

2 There is a case filed in C.C.No.215 of 2010 against the petitioner, in which, he filed a petition in Crl.M.P.No.1559 of 2011 under Section 239 of Cr.P.C. seeking discharge from the charges levelled against him, since the defacto complainant has filed notary affidavit dated 19.04.2008 to withdraw the complaint given by him. The learned Magistrate after hearing both sides, had dismissed the petition by order dated 12.11.2013, since there is a prima facie allegation to frame charges against the accused, and since the offence is not compoundable, the notary affidavit dated 19.04.2008 filed by the defacto complainant was also rejected

3 Aggrieved against the order dated 12.11.2013, the accused has preferred this present criminal revision before this Court.

4 When the matter is taken up for hearing the learned counsel appearing for the petitioner seeks adjournment. On earlier occasions, the matter was adjourned several times at request of the learned counsel for the petitioner only. Now also he seeks adjournment, which this Court is not inclined to grant. However, since this criminal revision is pending from the year 2015, this Court gone through the records and is decided to dispose of this revision on merits.

5 On a perusal of the records, it reveals that the petitioner has filed the petition under Section 239 of Cr.P.C., seeking discharge. Since the Magistrate found that the offences are not compoundable, has dismissed the petition filed by the petitioner/accused.

6 It is well settled proposition of law that when there is prima facie materials available to frame charges against the accused and proceed the case, the Court can frame charges against the accused and proceed the case further in accordance with law. Further, at the time of deciding petition under Section 239 Cr.P.C, the defence taken by the accused need not be looked into. Further compounding the case is not the ground for discharge, in the case of non compoundable offence.

7 In the present case, since there is prima facie allegation against the accused to proceed the case further, the Court below has dismissed the petition seeking discharge filed by the accused, in which this Court does not find any valid reason to interfere and hence the revision is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar

cgi/ssi
To

1. The Chief Judicial Magistrate Court,
Pondicherry.

2. The Public Prosecutor,
High Court of Madras. (Pondy)

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3.The Station House Officer,
CID police Station,
Pudhucherry

+1 CC TO GOVERNMENT PLEADER SR.NO.59847

Cr1.R.C.No.372 of 2015 and
M.P.No.1 of 2015

CA (c0)

ASK(19/09/2018)



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