

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.10.2018
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1150 of 2018

D.Rajendran ... Petitioner

Vs.

State Rep. By
Deputy Superintendent of Police,
Crime branch CID,
Kanchipuram,
CBCID,
Vellore. ... Respondent

Prayer:

Criminal Revision Case filed under Sections 397 r/w 401 of the Criminal Procedure Code seeking to call for the records relating the order passed in Crl.M.P.No.33 of 2018 in CC No.51 of 2017 dated 23.7.2018 on the file of the Chief Judicial Magistrate, Chengleput and set aside the same.

For Petitioner : Mr.K.Muthu Ganesa Pandian

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

O R D E R

This criminal revision has been filed seeking to call for the records relating to the order passed in Crl.M.P.No.33 of 2018 in C.C.No.51 of 2017 dated 23.07.2018 on the file of the Chief Judicial Magistrate, Chengleput and to set aside the same.

2.The petitioner is the accused in the case in C.C.No.51 of 2017 and he filed petition under Section 239 of Cr.P.C. in Crl.M.P.No.33 of 2018 before the lower Court seeking to discharge him from all charges in C.C.No.51 of 2017. The said petition was dismissed by the lower Court. Aggrieved by the same, the present revision has been filed.

3.The petitioner was suspended from service while he working as Deputy Superintendent of Police, Cheranmahadevi Sub Division, Tirunelveli District and at the relevant point of time, he was working as Inspector of Police, Anti Land Grabbing Special Cell, Kancheepuram District.

4.The case in brief as per the final report filed under Section 173(2)(i) of Cr.P.C., in Vellore CB CID Cr.No.1 of 2015, is that based on the complaint given by one Krishnaveni, an enquiry was conducted by one Siva Velliappan, the then DSP CBCID, Kancheepuram, on the allegation that one Manavalan, Nandakumar, Rajendran, Moorthy and Meera and three others of DCB, Kancheepuram had illegally detained

Krishnaveni and her sons and took them in a Police vehicle to the Sub Registrar Office at Sriperumpudur and under force and coercion, cancelled the settlement deed at gun point in respect of 2.25 acres of agriculture land at Kolathur Village, Sriperumpudur Taluk, Kancheepuram District owned by her and they were also subjected to harassment and under threat, their signature was obtained in Rs.100/- bond paper as well as in white paper by Police Officials of DCB, Kancheepuram.

5. During the pendency of enquiry, as per the instructions of the ADGP, CBCID, Chennai, the enquiry was transferred to one A.C.Vellaiyan, the then DSP CBCID, Vellore. On completion of enquiry, A.C.Vellaiyan, the then DSP CBCID, Vellore, submitted special report and held that the allegations levelled by the complainant are substantiated and recommended for legal action against the Police Officials and others. Hence as per the directions issued by the ADGP CBCID, Chennai, on 13.01.2015, a case in Vellore CB CID Cr.No.01 of 2015 under Sections 120 (B), 341, 342, 347, 384 and 477 of IPC was registered on 20.01.2015.

6. In the final report it is further stated that on 04.11.2013, one Karthik s/o Ramaraj, gave a petition to one Baskaran, the then Additional Superintendent of Police, Head Quarters, Kancheepuram District against one Krishnaveni and her two sons alleging that they created forged documents and are trying to sell the land purchased by him to third persons with fabricated documents and requested action against them. The said petition was forwarded to the petitioner for enquiry. On receipt of the petition, the petitioner served summons on 12.11.2013 to the said Krishnaveni and her two sons asking them to appear before him on 13.11.2013 for enquiry. However, the said Krishnaveni and her two sons instead of appearing before the petitioner for enquiry, approached this Court by filing petition in CrI.O.P.No.30721 of 2013 seeking anticipatory bail. This Court vide order dated 02.12.2013 granted anticipatory bail to them on condition that the petitioners therein shall be available for interrogation by the respondent police therein daily at 10.30 a.m., for two weeks and thereafter as and when required. To comply with the said condition, the said Krishnaveni and her two sons appeared before the DCB/ ALGSC, Kancheepuram from 13.12.2013 till 16.12.2013.

7. On 22.11.2013, the said Krishnaveni and her two sons filed another petition in CrI.O.P.No.31060 of 2013 seeking anticipatory bail before this Court. This Court vide order dated 16.12.2013 dismissed

the said petition. In the order dated 16.12.2013, this Court has stated that "The learned counsel for the petitioners is not prepared to give a statement that the petitioners will not make any claim over the property in question. There is no dispute that the entire extent of about 2.5 acres of land was sold away by the first accused to the said Subramani and thereafter created the forged settlement deed. It appears that the accused 2 and 3 have joined hands with the first accused to create the settlement deed so as to create a cloud in the title of the property. Having regard to the said serious allegations against the petitioners, I am not inclined to grant the relief of anticipatory bail to the petitioners. Accordingly, the Criminal Original Petition is dismissed."

8. One Murthy, Special Sub-Inspector of Police attached to DCB/ ALGSC, Kancheepuram registered a case on the complaint given by Karthik on 14.12.2013 as DCB Crime No.97 of 2013 under Sections 120 (B), 465, 467, 468, 471 and 420 of IPC and the said Krishnaveni and her two sons appeared for the interrogation before the Special Sub-Inspector of Police, ALGSC, Kancheepuram on 17.12.2013. On the instructions of the petitioner and one Manavalan, DSP, the said Krishnaveni and her two sons were detained at Kancheepuram, ALGSC

Office till the evening and they were threatened and coerced by Special Sub-Inspector of Police one Moorthy in the presence of one Ramaraj and Karthik and threatened by Moorthy that they would be arrested if they do not cancel the settlement deed. Thereafter, they were taken in a Police vehicle to cancel the settlement deed.

9.The said Krishnaveni and her two sons were accompanied by Moorthy, Special Sub-Inspector of Police; Gunasekaran, Sub-Inspector of Police; Harikeerthi, Head Constable; Devadoss, Grade I Police Constable and Chelliammal, Woman Head Constable in the Government vehicle bearing Registration No.TN-21-G-2121 allotted to ALGSC, Kancheepuram. The said Ramaraj and Karthick followed them in a separate vehicle to the Sub Registrar Office, Sriperumpudur for execution of cancellation deed. Thereafter, with the help of the above Police personnel, the signature of Krishnaveni and her two sons were obtained and the settlement deed with Document No.2671 of 2008 was cancelled by the cancellation deed vide Document No.14911 of 2008 dated 17.12.2013. On the same day, [A] Register Receipt was received for the payment of Rs.50/- in the name of Krishnaveni for cancellation of settlement deed.

10.The learned counsel appearing for the petitioner would submit that at the relevant point of time, the petitioner was not available in the station and he went to trial for giving evidence before the Sessions Court, Chengleput. He would further submit that the petitioner has not accompanied the said Krishnaveni and her two sons in the Government vehicle to the Sub-Registrar Office and hence, implicating the petitioner in the offence is un-sustainable. Accordingly, he prayed for allowing the revision.

11.The learned Government Advocate (Crl. Side) would submit that un-disputedly the petitioner is arrayed as the fourth accused. The petitioner is the Investigating Officer in the case in DCB Crime No.97 of 2013 registered by the DCB/ ALGSC, Kancheepuram and on his instructions the case was registered against Krishnaveni and her two sons. The Police Officials who are said to have accompanied the complainant Krishnaveni were working under him.

12.The learned Government Advocate (Crl. Side) would further submit that there are several incredible documents available to prove the involvement of the petitioner and they are going to be marked at the time of trial before the trial Court. The lower Court after elaborate discussions, dismissed the petition filed by the petitioner under Section 239 of Cr.P.C. in Crl.M.P.No.33 of 2018 seeking to discharge him from all charges in C.C.No.51 of 2017. Hence, this Court need not interfere with the well considered order passed by the lower Court. Accordingly, she prayed for dismissal of the revision.

13.Heard the arguments advanced on either side and perused the materials available on record.

14.The un-disputed facts are that the petitioner is the Investigating Officer in the case in DCB Crime No.97 of 2013 registered by the DCB/ ALGSC, Kancheepuram, against the complainant Krishnaveni and her two sons. The said Krishnaveni and her two sons appeared for interrogation before the Special Sub-Inspector of Police, ALGSC, Kancheepuram on 17.12.2013. On the instructions of the petitioner and one Manavalan, DSP, the said Krishnaveni and her two sons were detained at Kancheepuram, ALGSC Office till the evening. Thereafter, they were accompanied by some Police Officials in the Government vehicle allotted to ALGSC, Kancheepuram and were taken to the Sub Registrar Office, Sriperumpudur. One Ramaraj and Karthick followed them in a separate vehicle to the Sub Registrar Office, Sriperumpudur for execution of cancellation deed. Thereafter, with the help of the Police personnel, the signature of Krishnaveni and her two sons were obtained and the settlement deed with Document No.2671 of 2008 was cancelled by the cancellation deed vide Document No.14911 of 2008 dated 17.12.2013. On the same day, [A] Register Receipt was received for the payment of Rs.50/- in the name of Krishnaveni for cancellation of settlement deed.

15.There are specific averments available in the final report filed in Vellore CB CID Cr.No.01 of 2015 and all those things cannot be appreciated in a petition seeking discharge from the charges. What is

required in a petition filed under Section 239 of Cr.P.C., is that whether any prima facie case is made out for implicating the accused person or not. All the materials were perused by the lower Court and the petition filed by the petitioner seeking discharge from the charges was dismissed by the lower Court.

16.This Court has perused the impugned order passed by the lower Court and do not find any error in the impugned order. This criminal revision is accordingly dismissed.

17.It is made clear that this Court has not expressed any opinion on the merits of the case. The facts discussed in this order is only for deciding the revision. The learned Chief Judicial Magistrate, Chengleput, shall proceed with the case in C.C.No.51 of 2017, without being influenced by any of the observations made in this order and shall decide the matter independently, based on the records and in accordance with law.

18.The criminal revision is accordingly dismissed.

09.10.2018

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Chief Judicial Magistrate,
Chengleput.

2.The Deputy Superintendent of Police,
Crime branch CID,
Kanchipuram,
CBCID,
Vellore.

M.DHANDAPANI,J.

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