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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C. (MD)No.445 of 2018

and

Crl.M.P. (MD)No.6311 of 2018

M.C.Albert ... Petitioner/Petitioner/Accused No.2

Vs

The State rep. By
The Inspector of Police,
Crime Branch,
Palayamkottai,
Tirunelveli District.
(Crime No.1860 of 2009) ... Respondent/Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 399 r/w 401 of Cr.P.C, praying, to call for the records relating to Cr.M.P.No.7182 of 2016 in C.C.No.602 of 2010 on the file of the Judicial Magistrate Court No.I, Tirunelveli and set aside the order dated 04.04.2018 and allow the revision and pass appropriate orders.

For Petitioner : Mr.R.Ramachandran

For Respondent : Mr.A.Robinson
Government Advocate (Crl.side)

O R D E R

Heard the learned counsel for the revision petitioner as well as the learned Government Advocate (Criminal Side).

2.It is contended by the revision petitioner that based on one F.I.R. two charge sheets were filed and the copy of the first charge sheet was not served on him. The trial Court has taken the second charge sheet on file and proceeded further, which is against law.

3.When the Court poses a question which provision prohibits filing two charge sheets upon one F.I.R., the learned counsel relied upon a judgment of the Calcutta High Court reported in 2013 CRI. L. J. 2807, wherein, the learned Judge has observed that two charge sheets filed on the basis of the single F.I.R which are destructive to each other is not permissible.

4.As far as the facts of the present case is concerned, the complaint against the petitioner herein is for the offence punishable under Sections 380, 408 and 420 IPC. The investigation has been completed and final report has been filed in Crime No.1860 of 2009. However, the trial Court, after perusing the records has



returned it for further particulars, thereafter, a fresh final report has been filed, wherein the offence under Sections 120(b) 380, 420, 424 and 477 IPC r/w 34 IPC has been alleged. The trial Court has taken this final report on file. It is reported that a copy of this final report along with the documents relied on by the prosecution has already been served to the petitioner herein as per Section 207 Cr.P.C.

5. In the said circumstances, the contention raised by the petitioner is unsustainable. The final report filed by the prosecution is only for the Court to take cognizance of the offence and the charge will be framed against the offenders based on the prima facie material available for the offence alleged in the final report. Therefore, this Court finds no error in the order passed by the trial Court dismissing the discharge petition. The merits of the material placed before the Court including the conclusion of the Investigating Officer as found in the final report can be canvassed before the Court during the trial. Hence, the revision petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate Court No.I, Tirunelveli.
2. The Chief Judicial Magistrate, Tirunelveli.
3. The Inspector of Police,
Crime Branch,
Palayamkottai,
Tirunelveli District.

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