



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C. [MD]No.619 of 2018

and

Cr1.M.P. (MD)Nos.9440 & 9441 of 2018

K.Balakrishnan

: Petitioner

Vs.

State rep. by
Inspector of Police,
CID/CCIW,
Dindigul Police Station,
(Crime No.3 of 2015)
Dindigul.

: Respondent

PRAYER : Criminal Revision Case is filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the Impugned order passed in Cr1.M.P.No.3195 of 2016 in C.C.No.5 of 2016 on the file of the learned Judicial Magistrate No.III, (CCIW), Madurai, dated 20.06.2018 and set aside the same.

For Petitioner : Mr.V.Natarajan

For Respondent : Mrs.Bharathi
Government Advocate (Cr1. Side)

O R D E R

This Criminal Revision Case has been filed against the order passed by the learned Judicial Magistrate No.III, (CCIW), Madurai, made in Cr1.M.P.No.3195 of 2016 in C.C.No.5 of 2016, dated 20.06.2018.

2.Heard the learned Counsel appearing for the revision petitioner and the learned Government Advocate (Criminal side) appearing for the respondent.

3.The complainant registered a case against the revision petitioner under sections 408, 409, 477(A) read with 34 of IPC. After investigation, the respondent has filed a charge sheet against the revision petitioner under Sections 408, 409, 477(A) read with 34 of IPC. The learned Judicial Magistrate has taken the case on file in C.C.No.5 of 2016. During pendency, the petitioner herein filed a petition before the learned Judicial Magistrate in Cr.M.P.3195 of 2016 to discharge the petitioner from the charges levelled against the revision petitioner. After considering the discharge petition, the learned Judicial Magistrate held that sufficient evidence is available against all the accused in the case and dismissed the petition. Aggrieved over the said order passed by the learned



Judicial Magistrate, the revision petitioner/A3 has filed the present revision.

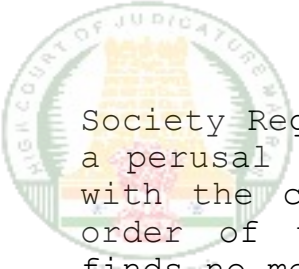
4. The learned Counsel for the petitioner would submit that the revision petitioner is an innocent person and he has been falsely implicated in this case, after 7 years from his retirement and board resolution has not been obtained and also prior sanction was not obtained and therefore, the learned Judicial Magistrate failed to consider the legal position and also factual aspects and dismissed the application, which needs interference of this Court.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that after investigation the respondent Police found that there is a prima facie allegation against him and there is a material to proceed against him and therefore, the respondent police filed charge sheet under Sections 408, 409, 477(A) read with 34 of IPC. The learned Judicial Magistrate has considered all the points raised by the revision petitioner and found that there is a prima facie evidence against the accused including the revision petitioner and therefore, the learned Judicial Magistrate rightly considered the case and dismissed the petition and the same does not warrant interference and therefore, there is no merit in this revision.

6. Heard both sides and perused the records.

7. There is allegation against the revision petitioner and other accused in this case. The complaint reveals that the accused has committed loss to the Society. As per FIR a case has been registered under Sections 408, 409, 477(A) read with 34 of IPC. After investigation, the respondent has filed a charge sheet against the revision petitioner under Sections 408, 409, 477(A) read with 34 of IPC. The learned Judicial Magistrate has taken the case on file in C.C.No.5 of 2016. During pendency, the petitioner herein filed a petition before the learned Judicial Magistrate in Cr.M.P.3195 of 2016 to discharge the petitioner from the charges levelled against the revision petitioner. On a perusal of records, the learned Judicial Magistrate concluded that there is a prima facie material available against the revision petitioner to proceed with the trial. While dealing the petition under Section 239 of Cr.P.C., the Court has to see the documents filed by the prosecution under Section 173 of Cr.P.C. and the defence taken by the revision petitioner/ accused need not be looked into at this stage. A perusal of documents filed by the respondent police under Section 173 of Cr.P.C there is a prima facie materials to proceed against the revision petitioner and therefore, there is no merits in this revision.

8. In support of his contention, the learned Counsel for the petitioner has also relied on the judgment reported in **2015(3) SCC (Cri) 601** in the case of **State of Punjab Vs. Labh Singh**. The judgment cited by the learned Counsel for the petitioner is not applicable to the present case at this stage. Therefore, the



Society Registration Act is not applicable to the present case. On a perusal of the records, there is sufficient materials to proceed with the case and this Court does not find any perversity in the order of the learned Judicial Magistrate. Therefore, this Court finds no merits in this revision.

9. Accordingly, the Criminal Revision Case is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Judicial Magistrate No. III, (CCIW),
Madurai.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,

+1cc to Mr. V. Natarajan, Advocate Sr. No. 96074

RM

KM/BK/SAR3/19.12.2018/3P/4C

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