



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.[MD].No.16141 of 2018

and

Crl.M.P(MD)No.7158 of 2018

D.S.Shanmugasundaravadivel : Petitioner/Petitioner/8th Accused
Vs.

1.The State represented by
The Inspector of Police,
Commercial Crimes Investigation Wing,
Nagercoil, Kanyakumari District.

2.K.Alexandar

3.Mary Darvi

4.C.Sam Justin Thambi

5.S.Ponnumoni

6.T.Nagaswami

7.V.Sivamalappa

8.S.Palanivel Raj : Respondents/Respondents/Accused Nos.1 to 7 and 9

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 26.04.2018 passed in Crl.R.C (MD)No.20 of 2007 on the file of the District and Sessions Judge, Kanyakumari District at Nagercoil against Crl.M.P.No.1807 of 2006 in C.C.No.25 of 2006 dated 08.03.2007 on the file of the learned Judicial Magistrate No.II, (Special Court) Tirunelveli.

For Petitioner : Mr.G.Prabhu Rajadurai

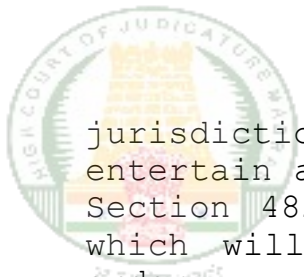
For Respondent : Mr.K.Suyambulinga Bharathi
R1 Government Advocate

ORDER

This Criminal Original Petition has been filed challenging the order passed in Crl.R.C.No.20 of 2007, confirming the order of the learned Judicial Magistrate No.II, (Special Court) Tirunelveli, dismissing Crl.M.P.No.1807 of 2006 filed by the petitioner for seeking for discharge.

2.The petitioner is the 8th accused in this case. The learned counsel for the petitioner has raised several grounds in order to substantiate his arguments seeking for discharge of the petitioner.

3.It is seen from the records that already the dismissal of the discharge petition has become a subject matter before the Sessions Court in revision petition. In view of the bar under Section 397 to entertain a second revision, that does not automatically vest



jurisdiction on this court under Section 482 of Cr.P.C., to entertain a petition of this nature. In other words a petition under Section 482 of Cr.P.C., cannot be used only to reagitate a case, which will amount to entertaining a second revision against the order.

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4.It is seen from the records that a case is of the year 2006. All the grounds that have been raised by the petitioner, can be raised before the court below and the court below will consider the same on its own merits. There shall be a direction to the learned Judicial Magistrate No.II, Camp Court, at Nagercoil to dispose of the C.C.No.25 of 2006 within a period of three months from the date of receipt of a copy of this order.

5.At this stage, the learned counsel for the petitioner would submit that the petitioner is aged about 60 years and his presence may be dispensed with. There shall be direction to the petitioner to file a petition to dispense with his appearance and the court below shall entertain the same and permit the petitioner to be represented by a counsel. The petitioner shall appear before the court as and when directed by the court below.

6.This Criminal Original Petition is disposed of with the above directions. Consequently connected miscellaneous petition is closed.

Sd/

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar(CS-III)

To

1.The District and Sessions Judge,
Kanyakumari District at Nagercoil.

2.The Judicial Magistrate No.II,
(Special Court) Tirunelveli.

3.The Judicial Magistrate No.II,
Camp Court @ Nagercoil.

4.The Inspector of Police,
Commercial Crimes Investigation Wing,
Nagercoil, Kanyakumari District.

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

+1cc to Mr.G.PRABHU RAJADURAI, Advocate, SR.No. 83610

Cr1.O.P.[MD].No.16141 of 2018

10.09.2018

DAS

<https://hcservices.ecourts.gov.in/hcservices/>

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