

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.08.2019

CORAM
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.RC.No.1363 of 2012
and
CrI.M.P.Nos.1 & 2 of 2012

Mohamed Ghouse

.... Petitioner/Accused 3

vs

State by
The Assistant Commissioner of
Central Excise Prosecution
Chennai IV Commissionerate,
MHU Complex,
692, Anna Salai,
Nandhanam, Chennai

.... Respondent/Complainant

Prayer Criminal Revision is filed under Section 397 r/w 401 of Code of Criminal Procedure, to call for the records relating to the order dated 19.07.2012 passed by the Chief Judicial Magistrate, Chengalpattu in C.M.P.No.238 of 2012 in C.C.No.45 of 2006 and set aside the same.

For Petitioner : No Appearance

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor

ORDER

The revision petitioner filed a complaint against the respondent before the jurisdictional police station. The said complaint was taken on file by the learned Chief Judicial Magistrate, Chengalpet, in C.C.No.45 of 2006. During pendency of the case, on the file of the learned Chief Judicial Magistrate, Chengalpet, the revision petitioner herein filed a petition under Section 245(2) Cr.P.C., in C.M.P.No.238 of 2012 for discharging the revision petitioner from the alleged charges. After giving sufficient opportunity, the learned Chief Judicial Magistrate, Chengalpet, found that prima facie case has been made out and sufficient materials are available to frame charges against the petitioner. Hence, dismissed the petition.

2 Challenging the said order passed by the learned Chief Judicial Magistrate, Chengalpet, in C.M.P.No.238 of 2012, the

revision petitioner has filed a present Criminal Revision Case before this Court.

3 Today, when the matter is taken up for hearing, there is no representation on behalf of the revision petitioner. The revision is pending for more than 7 years from 2012. At the time of admission, this Court has granted a stay of further proceedings. Taking advantage of the stay, the revision petitioner is not interested to proceed with this criminal revision. Hence, this Court inclined to dispose of this revision case on merits.

4 Heard the learned Special Public Prosecutor for the respondent and perused the material available on records.

5 The respondent filed complaint before the learned Chief Judicial Magistrate, averred that the petitioner has committed the offences punishable under Section 9(1) (a) of Central Excise Act, 1944, as amended (referred as CEA) read with Rule 174 r/w Section 6 of the CEA as amended, Section 9(1) (b) of CEA r/w Rule 9(1) (bb) of CEA r/w Rule 52A, Rule 173 B, Rules 173C, 173E, 173F, 173G, 53 r/w 226(7counts), and also the learned Magistrate taken the complaint on file and found that prima facie case is made out and there are sufficient materials available to proceed the case further against the revision petitioner and to frame the charges.

6 On reading of the complaint, as well as the list of admission annexed with the complaint. This Court also found that there are allegations levelled against the revision petitioner in the complaint and on reading of the allegations levelled in the complaint and there are materials to frame the charge against the revision petitioner to proceed further.

7 It is a well settled propositions of law, while deciding the petition under Section 245 Cr.P.C., this Court has to see the averments made in the complaint filed by the complainant and materials placed by the complainant along with the complaint. The Court need not conduct the roving enquiry on the materials placed by the department and need not consider the defence taken by the accused and also the documents produced by the accused.

8 On reading of the averments made by the respondent and list of documents annexed with the complaint. This Court finds that there is a prima facie case against the revision petitioner to frame the charge and to proceed with the case further. Therefore, this Court finds that there is no perversity in the order passed by the learned Chief Judicial Magistrate, Chengalpattu, in C.M.P.No.238 of 2012 in C.C.No.45 of 2006 and this Court finds there is no merits in the revision, the revision is liable to be dismissed.

9 Accordingly, the Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed. Since the matter is pending from 2006 onwards, the learned Chief Judicial Magistrate, Chengalpattu, is directed to frame the charge within a week from the date of receipt of a copy of this order and to complete the trial within a period of three months therefrom and to dispose of the case in accordance with law.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

sbn

To

- 1.The Chief Judicial Magistrate,
Chengalpattu.
- 2.The Assistant Commissioner of
Central Excise Prosecution,
IV Commissionarate,
MHU Complex,
No.692, Annasalai,
Nandanam, Chennai.
- 3.The Special Public Prosecutor,
High Court, Madras.

Cr1.RC.No.1363 of 2012
and

Cr1.M.P.Nos.1 & 2 of 2012

RRS (09/08/2019)

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