

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.168 of 2018 and
CrI.M.P.Nos.1420 & 1421 of 2018

A.Asokan

...Petitioner/Accused

Vs.

State rep. By
Inspector of Police,
E-5, Pattinampakkam Police Station,
Chennai. ...Respondent/complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the order of dismissal in CrI.M.P.No.2660 of 2017 dated 04.01.2018 by the Court of Session Judge, Mahila Court, Chennai, while dismissing the discharge petition filed by the petitioner under Section 257 Cr.P.C.

For Petitioner : No Appearance

For Respondents : Mr.R.Ravichandran
Government Advocate (CrI.Side)

ORDER

The criminal revision has been filed against the order dated 04.01.2018 made in CrI.M.P.No.2660 of 2017 in S.C.No.384 of 2016 by the learned Sessions Judge, Mahila Court, Chennai.

2 The facts leading to prefer this revision are as follows:

The petitioner is the accused in S.C.No.384 of 2016. The defacto complainant gave a complaint on 07.12.2015 against the petitioner herein. Based on the complaint, FIR has been registered and the Inspector of Police, after investigation, filed a charge sheet under Sections 509, 307 of I.P.C. & 20 r/w 30 of Arms Act before the learned XXIII, Metropolitan Magistrate Court, Saidapet. The learned Magistrate has taken the charge sheet on file and committed that the case to Sessions Court. The

Sessions Court has taken the case on file in S.C.No. 384 of 2016. Pending the above case, the petitioner/Accused had filed miscellaneous petition in Crl.M.P.No.2660 of 2017 under Section 227 of Cr.P.C, before the learned Sessions Judge, Mahila Court, Chennai seeking to discharge him from the above case. The learned Sessions Judge, Chennai, after hearing both sides, dismissed the petition by order dated 04.01.2018 observing that prima facie, there are allegations made out against the petitioner.

3 Aggrieved against the above said order dated 04.01.2018, the petitioner/accused has preferred the present revision before this Court.

4 When the matter was taken up for hearing on 20.02.2019 the learned counsel for the petitioner sought adjournment to post this case today for final disposal. Today, when the matter was called, none appeared on behalf of the petitioner. Despite several opportunities given to the petitioner, there is no representation on his behalf.

5 The learned Government Advocate (Crl.Side) appearing for the respondent/police would submit that there is enough incriminating material to proceed against the revision petitioner. Even the statement of the witnesses have clearly stated the involvement of the petitioner and he is using the weapon. The learned Sessions Judge, having found that there is a prima facie case made out against this petitioner, has dismissed the petition. There are no merits in the revision to set aside the order passed by the learned Sessions Judge.

6 Heard the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials placed before the Court.

7 A perusal of the records reveal that the respondent police has registered a case and after completion of the investigation, charge sheet was filed before the learned XXIII, Metropolitan Magistrate Court, Saidapet and the statement of the witnesses have also been annexed there with. The learned Sessions Judge found that there is a prima facie case made out against this petitioner and dismissed the petition filed by the petitioner seeking discharge from S.C.No.384 of 2016. It is well settled proposition of law that while considering petition under Section 227 of Cr.P.C. seeking discharge, the Court has to see the documents filed by the prosecution under Section 173 of Cr.P.C. before the Court and if prima facie, case made out it can be proceeded further and the

Court need not look into the defence. Further probative value of the materials need not be gone into while framing charges.

8 Upon consideration of the records filed by the prosecution under Section 173 Cr.P.C in this case and the statements made by the witnesses, if the trial Judge had no sufficient grounds for proceeding against the accused, he could discharge the accused. But in this case, considering the said materials, this Court is of the view that there is a prima facie case made out against the petitioner to proceed with the case further and he has to face the trial. Hence this Court does not find any reason to interfere with the order dated 04.01.2018 passed by the learned Session Judge, Mahila Court, Chennai.

9 In the result, the criminal revision is dismissed as there is no prerversity or infirmity in the order passed by the Court below. The revision filed by the accused shall stand dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
E-5, Pattinampakkam Police Station,
Chennai.
2. The learned Session Judge,
Mahila Court,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

Copy to
The section officer,
Criminal Section,
High court, Madras

CrI.R.C.No.168 of 2018 and
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A.SK(12/04/2019)