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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. No.508 of 2019
and
Crl.M.P.No.7049 of 2019

Sathik @ Sathik Basha

... Revision Petitioner

Vs.

State Rep. By
Inspector of Police,
Annamalai Nagar Police Station,
Chidambaram,
Cuddalore District.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 Cr.P.C., praying to call for the records and set aside the order passed by the II Additional District and Sessions Judge, Chidambaram, Cuddalore District in Crl.M.P.No.168 of 2018 in S.C.No.100 of 2018 dated 03.01.2019, dismissing the discharge petition filed by the petitioner.

For Petitioner : Mr.R.R.Ravi

For Respondent : Ms.P.Kritika Kamal
Government Advocate (Crl. Side)

O R D E R

This Criminal Revision Case has been filed to call for the records and set aside the order passed by the II Additional District and Sessions Judge, Chidambaram, Cuddalore District, in Crl.M.P.No.168 of 2018 in S.C.No.100 of 2018, dated 03.01.2019, dismissing the discharge petition filed by the petitioner.

2.An occurrence took place on 19.10.1998, in which, one person lost his life, pursuant to which, the Inspector of Police, Annamalai Nagar Police Station, registered a case in Crime No.349 of 1998 against 17 persons, including the



petitioner herein. After completing the investigation, the police filed a final report in P.R.C. No.28 of 2013 before the Judicial Magistrate Court No.I, Chidambaram. The petitioner was shown as 5th accused in the final report. The petitioner absconded, on account of which, the case against him was split up and the case as against the other accused was committed to the Court of Session in S.C.No.323 of 2009 for trial. After a full fledged trial, in which, it is stated that, most of the prosecution witnesses turned hostile, the Sessions Judge, by judgment dated 17.12.2014 in S.C.No.323 of 2009, acquitted the other accused. However, Non-Bailable Warrant was pending as against the petitioner herein. The petitioner was arrested in execution of the Non-Bailable Warrant and he was produced before the Sessions Court and he is now facing trial in S.C.No.100 of 2018 before the II Additional District and Sessions Court, Chidambaram. While so, the petitioner filed an application in CrI.M.P.No.168 of 2018 in S.C.No.100 of 2018 under Section 227 Cr.P.C. for discharge on the ground that, since, the other accused have been acquitted, there may not be any evidence against him. However, the trial Court has dismissed CrI.M.P.No.168 of 2018 on 03.01.2019, aggrieved by which, the petitioner is before this Court.

3.Heard Mr.R.R.Ravi, learned counsel for the petitioner, who submitted that, no useful purpose will be served, if trial against the petitioner proceeds further, inasmuch as most of the witnesses are not available and even some of the accused in the earlier case have died.

4.Per contra, learned Government Advocate (CrI. Side) appearing on behalf of the respondent police submitted that the petitioner is again absconding and is not appearing before the trial Court.

5.This Court gave its anxious consideration to the rival submissions.

6.The fact remains that the petitioner absconded and did not participate in the trial in S.C.No.323 of 2009. Though, the witnesses turned hostile in that case, we cannot presume that they will turn hostile in S.C.No.100 of 2018 against the petitioner. The petitioner, who is an absconder, cannot claim the benefit of law. If such benefit is extended to him, every accused in a criminal case would abscond and claim privilege in the event of the trial Court acquitting those accused who submitted themselves to the process of law.



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7. Under such circumstances, this Criminal Revision Case is devoid of merits and hence, stands dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (insp.cell)

//True Copy//

Sub Assistant Registrar

mkn

To

1. The II Additional District and Sessions Judge,
Chidambaram,
Cuddalore District.
2. The Public Prosecutor,
High Court, Madras.
3. The Inspector of Police,
Annamalai Nagar Police Station,
Chidambaram, Cuddalore District.

+1cc to Mr.T.R.Ravi, Advocate, SR. No. 47680

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NRL(CO)
RMP(04/07/2019)