

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.365 of 2019

D.Chitra

...Petitioner/4th Accused
-Vs-

The State of Tamil Nadu
Represented by
The Inspector of Police
Central Crime Branch,
Egmore, Chennai -08.

...Respondent/Complainant

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 21.03.2019 made in C.M.P.No.4350 of 2018 in C.C.No.8012 of 2017 by the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.C.K.M.Appaji

For Respondent : Mr.R.Ravichandran,
Government Advocate (Crl.Side)

O R D E R

This criminal revision has been filed by the petitioner against the dismissal of petition for discharge from the case filed by her under Section 239 of Cr.P.C by the learned CCB & CBCID Metropolitan Magistrate, Chennai, in C.M.P.No.4350 of 2018 in C.C.No.8012 of 2017.

2 Originally a case was registered against two persons and on investigation, subsequently the petitioner has been arrayed as 4th accused for the offence punishable under Section 409 and 420 r/w 34 of IPC. After completing investigation, respondent police laid charge sheet against 4 accused before the jurisdictional Magistrate and the same was taken on file in C.C.No.8012 of 2017 by the learned CCB & CBCID Metropolitan Magistrate, Chennai. Pending the above case, 3rd and 4th accused had filed separate miscellaneous petitions under Section 239 of Cr.P.C, seeking discharge. The learned Metropolitan Magistrate,

after giving due opportunities to both the parties, by orders dated 21.03.2019, has dismissed the petitions observing that there exists prima facie case. Aggrieved against the same, A4 has preferred this criminal revision.

3 According to learned counsel for the petitioner, the petitioner has been initially shown as victim and without sufficient materials, has been subsequently implicated in this case as A4. The petitioner has surrendered her agency and paid the amount of Rs.3,46,000/-. Therefore, the petitioner need not face ordeal of trial and entitled to get the relief as prayed for by her.

4 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the petitioner acted as agent in the Postal Department and she along with connivance of three others had luted public money between the year 2004 and 2005. The statement of accounts shows that the petitioner has actively participated in the crime as stated by the prosecution. The learned Metropolitan Magistrate, since there exists prima facie case, had rightly dismissed the petition, which does not call for any interference.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that the petitioner has been arrayed as A4 in the above case. It is contended by the learned counsel for the petitioner that she has surrendered her agency and paid the amount of Rs.3,46,000/-, but, the petitioner has surrendered her agency subsequent to the offence i.e. offence committed in the year 2004 and 2005, whereas, she surrendered her agency only in the year 2008. The statement of account shows that the petitioner/A4 has taken part in the crime actively. Therefore subsequent repayment of the amount luted by her will not take away the offence committed by her. Further, whether the petitioner has committed an offence or not is a matter for trial and after examining witnesses on either side only the Court can come to the conclusion.

7 It is well settled proposition of law, while considering petition seeking discharge, the Court has to see the allegations levelled in the complaint and the documents filed by the prosecution under Section 173 of Cr.P.C. and not defence of the accused. In this case, a perusal of the documents produced by the prosecution, would go to show that prima facie case made out to frame charge against the petitioner/A4. The probative value of the materials need not be gone into at this stage and the same can be done only after trial. Whatever the defence available for the petitioner/accused, it is always open to her

to establish the same before the trial Court during the trial,
but not at this stage.

8 In the result, the criminal revision case is dismissed.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

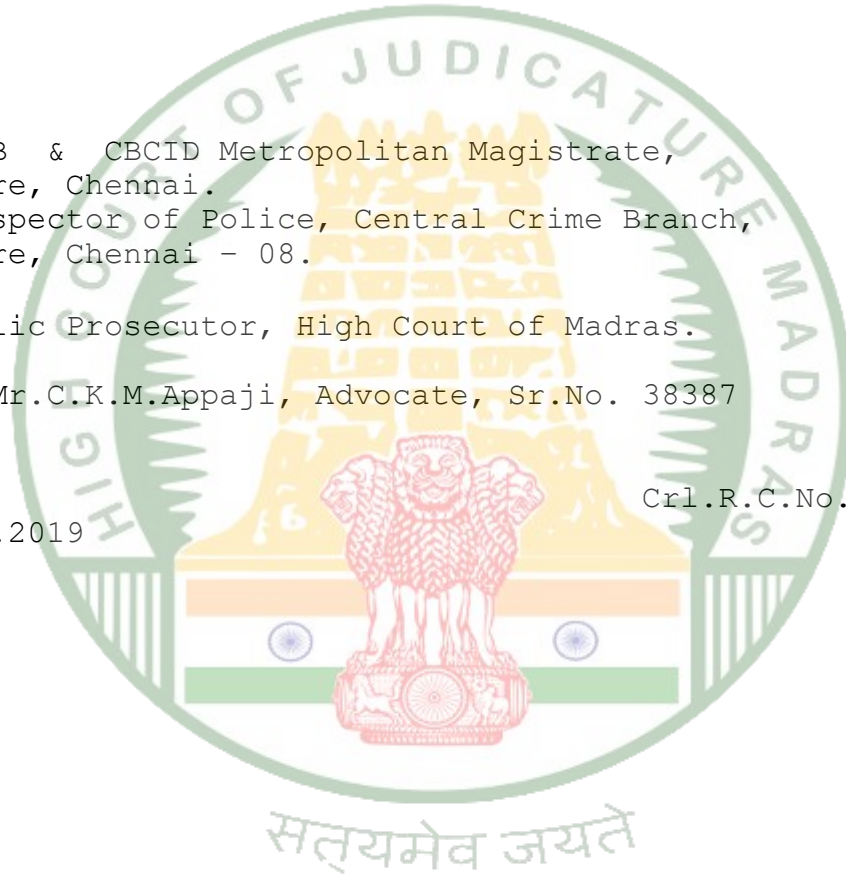
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To

1. The CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.
 2. The Inspector of Police, Central Crime Branch,
Egmore, Chennai - 08.
 3. The Public Prosecutor, High Court of Madras.
- +1 cc to Mr.C.K.M.Appaji, Advocate, Sr.No. 38387

CSL/03.07.2019

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