



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.12.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Criminal Revision Case No.1524 of 2019
and

Crl.M.P.Nos.19261 and 19262 of 2019

Sudhakar
S/o.Deivasigamani

.. Petitioner

versus

State represented by its
The Inspector of Police,
CCIW CID, Vellore,
Vellore District.
Crime No.23/2014

.. Respondent

Prayer: Criminal Revision filed u/s.397 and 401 Cr.P.C. praying to call for the entire records concerned in C.C.No.453 of 2016 and set aside the order passed in Crl.M.P.No.8106 of 2019 in C.C.No.453 of 2016 dated 05.12.2019 by the Judicial Magistrate II, Vellore.

For Petitioner	:	Mr.B.Lenin Balu
For Respondent	:	Mr.T.Shunmugarajeswaran Government Advocate

O R D E R

Petitioner has filed the present revision seeking to set aside the order passed in Crl.M.P.No.8106 of 2019 in C.C.No.453 of 2016 dated 05.12.2019 by the learned Judicial Magistrate II, Vellore.

2. The petitioner is figured as fourth accused in C.C.No.453 of 2016 on the file of learned Judicial Magistrate II, Vellore, for offences u/s.406, 465, 471, 477(A) r/w 109 IPC. There are as many as ten accused in this case. The petitioner filed Crl.M.P.No.8106 of 2019 u/s.239 Cr.P.C. for discharging himself from the case. It is not in dispute that the respondent



did not file any counter opposing the said prayer. The petitioner had specifically averred in his petition that on 05.12.2019 without hearing him or the respondent, the petition was suddenly dismissed by the Court below.

3. I have carefully went through the contents of the impugned order. In paragraph No.8, the Court below has stated as follows:

'8. Records perused. This Court has afforded sufficient opportunity to the respondent/police and A.P.P. to file their counter but even then they have not chosen to file their reply statements. Moreover the petitioner contention seeking to discharge when there are materials making out a prima facie case cannot be entertained and the petition may be dismissed directing the petitioner to stand for trial. On perusal of records it was found that the petition is premature one which cannot be entertained at this stage. Since, elaborate trial has to be conducted before this Hon'ble Court either to prove or to disprove the allegations levelled against the petitioner and hence this petition cannot be entertained and the same is dismissed accordingly.'

4. I am of the view that the impugned order is rather non-speaking. Neither the prosecution nor the Court below has stated as to how there are prima facie materials obtaining against the petitioner herein. Therefore, the matter will have to be re-heard by the Court below. In this view of the matter, the impugned order dated 05.12.2019 passed in CrI.M.P.No.8106 of 2019 in C.C.No.453 of 2016 is set aside and the Criminal Revision Case is allowed. The matter is remitted to the file of the learned trial Judge for fresh disposal in accordance with law. It is made clear that this Court has not expressed anything on the merits of the matter. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(C.S.)

//True Copy//

Sub Assistant Registrar



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To

1.The Judicial Magistrate II,
Vellore.

2.The Inspector of Police,
CCIW CID, Vellore,
Vellore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.B.Lenin Balu, Advocate SR.No.106859

AKM/06.01.2020 /3P-5C/

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