

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
Dated : 11.02.2019

CORAM:  
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1480 of 2018 and  
Crl.M.P.Nos.17374 & 17375 of 2018

Sundaramoorthy

...Petitioners

-Vs-

The Inspector of Police,  
District Crime Branch,  
Vellore, Vellore District.  
(Crime No.28/2009)

...Respondent

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. to call for entire records in connection with the Crl.M.P.No.317 of 2018 in C.C.No.109 of 2018 on the file of the learned Judicial Magistrate No.II, Vellore, Vellore District and set aside the order dated 08.10.2018.

For Petitioner : Mr.E.Kannadasan

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

\*\*\*\*\*

O R D E R

The petitioner was charged for the offence under sections 465, 466, 467, 468 r/w 471 and 409, 120(b) of the IPC and after investigation filed a charge sheet before the learned Judicial Magistrate II, Vellore, which was taken on file in C.C.No.109 of 2018. Pending the above case, the petitioner/accused has filed a petition under Section 239 of Cr.P.C, seeking discharge. The learned Magistrate, by order dated 08.10.2018 had dismissed the petition, against which, the petitioner is before this Court with the present criminal revision.

2 According to the learned counsel for the petitioner, the petitioner/A1 has not committed any offence and the Hon'ble High Court has quashed the proceedings against A3 and A2 is reported to be died. Hence this petitioner is entitled for the relief granted to A3, quashing the charges against him.

3 According to the learned Government Advocate (Crl.Side) appearing for the respondent would submit that since there is enough materials to proceed against this petitioner, the trial Court has dismissed the petition filed under Section 239 of

Cr.P.C, filed by the petitioner, which does not warrants any interference.

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

5 It is settled proposition of law, while deciding petition under Section 239 of Cr.P.C., the Court has to see the materials placed by the prosecution under Section 173 of Cr.P.C and not the defence taken by the accused. On a careful perusal of the evidence of the witnesses, there is prima facie allegations to proceed against the petitioner/A1. Hence this Court does not find any illegality or infirmity in the order dated 08.10.2018 made in CrI.M.P.No.371 of 2018 in C.C.No.109 of 2018 and hence the same is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cgi

To

- 1.The Judicial Magistrate No.II, Vellore,  
Vellore District.
- 2.The Inspector of Police,  
District Crime Branch,  
Vellore.
- 3.The Public Prosecutor,  
High Court, Madras.

+1cc to E.Kannadasan, Advocate, S.R.No.12040

CrI.R.C.No.1480 of 2018 and  
CrI.M.P.Nos.17374 & 17375 of 2018

KJI (CO)

rrs 13/03/2019

WEB COPY