

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 31.01.2019

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN**CrI.R.C.(MD)No.37 of 2017****and****CrI.M.P.(MD).No.344 of 2017**

Mahendra Varman @ Mahendran ...Revision

Petitioner/Petitioner/Accused No.10

Vs.

The Deputy Superintendent of Police C.B.I.,
Special Crime Branch,
Rajaji Bhavan, Besant Nagar,
Chennai,

(FIR No.RC.08/S/2014/CBI/SCB/Chennai. ... Respondent/Complainant

Prayer:- The Criminal Revision Petition is filed under Sections 397 r/w. Section 401 of Cr.P.C., against the order passed by the learned Ist Additional District and Sessions Judge, Madurai in Cr.M.P.No.420 of 2016, dated 19.10.2016.

For Petitioner: Mr.T.K.Gopalan

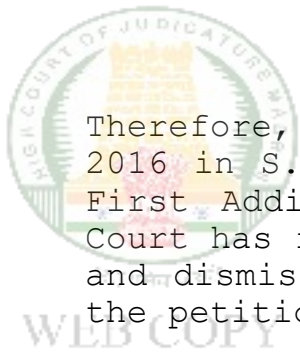
For Respondent: Mr.N.Nagendiran

Special Public Prosecutor for CBI cases

O R D E R

The Criminal Revision Petition has been filed against the order passed by the learned Ist Additional District and Sessions Judge, Madurai in Cr.M.P.No.420 of 2016, dated 19.10.2016.

2. The learned counsel appearing for the petitioner would submit that the revision petitioner is arrayed as A10 in Crime No.RC.08/S/2014/CBI/SCB/Chennai. He is only an advocate and appeared for A9 in the case and he has not committed any offence. Further, originally, the case was entrusted to the State Police. Tallakulam Police Station, Madurai investigated the matter. Subsequently, the investigation was transferred to C.B.I., where they have relieved the Karadi Abbas / L.W.95 and arrayed the petitioner as an accused No.10. He would further submit that except that he has appeared as a counsel for A9, he has not committed any offence as alleged by the prosecution. He would also submit that the prosecution has not produced the videograph regarding conversation made between the revision petitioner / A10 and A1 and also A9. The non-production of the video clipping is also fatal to the case of the prosecution and there is no material to connect this petitioner in this case.



Therefore, the petitioner has filed a petition in CrI.M.P.No.420 of 2016 in S.C.No.91 of 2016 under Section 227 of Cr.P.C., before the First Additional District and Sessions Judge, Madurai. The trial Court has failed to consider the application filed by the petitioner and dismissed the same on 19.10.2016. Challenging the said order, the petitioner has filed the present Criminal Revision Petition.

3. The learned Special Public Prosecutor for C.B.I. Cases would submit that though they have collected the call details, at a later point of time which shows that there is a conversation between the two telephone numbers and it was confirmed that the telephone number is to the accused arrayed in this case. Further, the evidence of L.Ws.96 to 98 has clearly stated that the involvement of the revision petitioner. He would further submit that the non-production of the video clipping is not fatal to the prosecution case and the defence can be established after recording the involvement of the revision petitioner only during the trial not at this stage. Therefore, there is no merit in the revision petition.

4. Heard the learned counsel for the petitioner, the learned Special Public Prosecutor for C.B.I. Cases and perused the materials available on record.

5. The learned counsel for the petitioner vehemently contended that the petitioner is arrayed as A10 and he is only an advocate and except that he has appeared for A9, absolutely there is no involvement in the present case. Therefore, this Court has directed to call for the entire records from the trial Court. The trial Court also submitted all the statement of the witnesses and the documents collected during the investigation by the C.B.I. Though in this case, originally the complaint has been preferred before the Tallakulam Police Station, subsequently, for one reason or other, the matter was transferred to the C.B.I. The C.B.I also completed the investigation and filed a charge sheet. Now, the charge sheet has been taken on file before the Ist Additional District and Sessions Judge, Madurai in S.C.No.91 of 2016, in which the revision petitioner has filed the discharge petition which was dismissed. After calling for the records, this Court has carefully gone through the records which shows that there is a *prima facie* allegations against the revision petitioner. Therefore, while deciding the petition under Section 227 of Cr.P.C., the Court has to see the records submitted under Section 173 of Cr.P.C., and the defence taken by the accused need not be looked into at the stage of deciding the petition under Section 227 of Cr.P.C. Further, at this stage probative value of the evidence also need to be gone into.

6. A careful reading of the statement of witnesses and also the other records submitted, this Court finds that *prima facie* there is a material to proceed against the revision petitioner in this case and whatever the defence he can take only during the trial to prove his innocence. Therefore, under such circumstances, this Court does



not find any merit in the criminal revision petition. Accordingly, the criminal revision petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar (CS)

To

1. The Deputy Superintendent of Police C.B.I.,
Special Crime Branch,
Rajaji Bhavan, Besant Nagar,
Chennai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Palani, Advocate, SR.No.44128

Cr1.R.C.(MD).No.37 of 2017

SP/24.04.2019/3P/4C

31.01.2019