



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.07.2019

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Cr1.RC(MD)Nos.115 and 124 of 2019

and

Cr1.MP(MD)Nos.2066 and 2186 of 2019

Ramar Poosari

: Petitioner/Respondent/A2

Vs.

The State represented by
The Deputy Superintendent of Police,
CBCID,
Virudhungar.
(Crime No.1 of 2001)

: Respondent/Petitioner/
Respondent

Prayer in Cr1.RC(MD)No.115 of 2019: Criminal Revision filed under Sections 397 r/w 401 of the Criminal Procedure Code against the order, dated 23.01.2019 made Cr.M.P No.9338 of 2018 on the file of the Judicial Magistrate Court No.2, Virudhu Nagar.

Ramar Poosari

: Petitioner/Respondent/A2

Vs.

The State represented by
The Deputy Superintendent of Police,
CBCID,
Virudhungar.
(Crime No.1 of 2001)

: Respondent/Petitioner/
Respondent

Prayer in Cr1.RC(MD)No.124 of 2019: Criminal Revision filed under Sections 397 r/w 401 of the Criminal Procedure Code against the order, dated 23.01.2019 made Cr.M.P No.9339 of 2018 on the file of the Judicial Magistrate Court No.2, Virudhu Nagar.

For Petitioner
(in both cases)

: Mr.R.Gandhi

For Respondent
(in both cases)

: Mr.A.Robinson
Government Advocate
(Criminal side)



COMMON - ORDER

These Criminal Revisions have been filed against the order, dated 23.01.2019 made CrI.M.P Nos.9338 and 9339 of 2018 on the file of the Judicial Magistrate Court No.2, Virudhu Nagar.

WEB COPY

2. One Janakiraman/PW1 lodged a complaint before the Inspector of Police, District Crime Branch, Virudhu Nagar District against one Sangaya Poosari and based on the complaint, a case in Crime No.1 of 2001 stands registered for the offences under Sections 467, 468, 471, 477(A) and 420 IPC and after investigation, charge sheet was filed against the said Sangaya Poosari on the file of the Judicial Magistrate No.2, Virudhu Nagar. When the matter stood thus, one Soundarajan Poosari/PW2 has filed a petition and the case was transferred to CBCID. The respondent police without conducting proper investigation has filed charge sheet before the Judicial Magistrate No.2, Virudhu Nagar against one Sangaya Poosari and the revision petitioner. During the pendency of the trial, the said Sangaya Poosari (A1) died and hence, in respect of A1 charges were abated and the trial is pending for more than 10 years against the petitioner.

3. It is seen that the prosecution has marked 74 documents and one Soundara Raja Poosari is shown as witness on the side of the prosecution and at this stage, two applications were filed by the prosecution one under Section 242(2) Cr.P.C and another under Section 311 Cr.P.C to summon one Ramamoorthy Poosari as additional witness and to mark photocopies of several documents. Both the applications were allowed. Aggrieved by the order passed in CrI.M.P.No.9338 and 9339 of 2018 in C.C.No.17 of 2010, dated 23.01.2019, the petitioner is before this court with these revisions.

4. Heard both sides and perused the materials available on record.

5. The main contention raised on the side of the petitioner/A2 is that the prosecution is not entitled to file any document or materials collected during the course of investigation and since they failed to produce before the court at the time of filing of charge sheet, without resorting the course by way of filing application under Section 173(8) of Cr.P.C and the police seeking for filing some documents directly before the trial court without conducting any further investigation is not sustainable in law and prays that the criminal revisions have to be allowed.

6. In this case, on the side of the prosecution to prove the case, seeks permission to examine Ramamoorthy Poosari the then Trustee of Arulmigu Irukkangudi Mariamman Temple Ramamoorthy Poosari as witness. But it was opposed on the side of the petitioner that there was misappropriation case filed against the said Ramamoorthy Poosari before the Court of Judicial Magistrate, Sattur and in that



case, the petitioner/A2 gave evidence against him and hence, the said Ramamoorthy Poosari will definitely depose against the petitioner/A2 and hence, prays for dismissal the criminal revisions.

7. Further, on the side of the prosecution, it is stated that already one agreement entered into between Ramamoorthy Poosari, Assistant Commissioner, HR & CE Department and this accused in respect of the of the misappropriation amount and hence, it is necessary to produce the above document and examination of Ramamoorthy is necessary.

8. The petition mentioned document can be proved only at the time of examination of the witnesses by way of cross examination. At this stage, it can be received subject to proof and relevancy. Further, no prejudice will be caused to the petitioner when the above document were received and Ramamoorthy was examined. The petitioner has chance to cross examine the Ramamoorthy Poosari and prove the above documents. The reasons stated in the criminal revision petitions by the petitioners are not acceptable. The impugned orders passed by the trial court are correct and hence, this court is of the considered view that there is no need to interfere with the findings of the trial court

9. In the result, these criminal revisions are **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

To,

1. The Judicial Magistrate No.II,
Virudhunganar.
2. The Deputy Superintendent of Police,
CBCID,
Virudhunganar.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High court,
Madurai.

order made in
Crl.Rc. (MD) Nos.115 and 124 of 2019
10.07.2019

er

VB (24.10.2019) 3P 4C