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BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 13.09.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

CRL. R.C. (MD) NO. 459 OF 2019

AND

CRL. M.P. (MD) NOS. 6348 AND 6349 OF 2019

Muniyasamy

.. Petitioner/Petitioner/A1

- Vs -

State, rep. by
the Inspector of Police
Commercial Crime Investigation Wing
(CCIW), Dindigul
Dindigul District.

.. Respondent/Respondent/Complainant

Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure calling for the records pertaining to the order passed in Crl. M.P. No.27 of 2019 in C.C. No. 22 of 2017 on the file of the learned Judicial Magistrate Court No.III (CCIW), Madurai, dated 20.06.2019 and to allow this Criminal Revision

For Petitioner : Mr. R.Karunanidhi

For Respondents : M/s. M.Anantha Devi, GA (Crl. Side)

ORDER

The above revision has been filed against the order of the Judicial Magistrate No.III (CCIW) dated 20.6.19, dismissing the discharge petition filed by the petitioner/accused.

2. The charge against the petitioner/accused was that he had conspired with other accused and misappropriated a sum of about Rupees Ten Lakhs of the Central Co-operative Bank, by obtaining loans for self help groups fraudulently during the period from 17.12.08 to 24.02.09. A case was registered in Crime No.1/2014 on the file of the respondent police. A charge sheet was filed for the alleged offence u/s 403, 406, 409, 467, 468, 471, 477 (A) r/w 34 IPC and the same was taken on file in C.C. No.22/2017 on the file of the learned Judicial Magistrate No.III (CCIW), Madurai.

3. The petitioner herein, who is the first accused, filed discharge petition on the ground that the loan applications were verified by several higher officials like the Branch Manager, Grading Officer, Clerk, Assistant General Manager, Chief Revenue Officer, etc., in the Central Bank. According to the petitioner, he was an innocent person as he was on leave during the crucial period for his younger brother's wedding.



4. The learned Judicial Magistrate, who took up the discharge petition, dismissed the same on the ground that there was enough materials to proceed against the petitioner and, therefore, held that the discharge petition was not maintainable.

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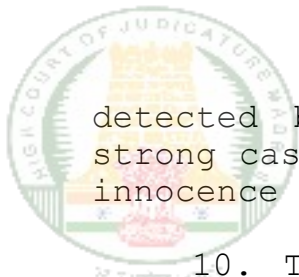
5. Learned counsel appearing for the petitioner submitted that though there were several persons higher up the hierarchy in the bank and that during the crucial period, the petitioner was on leave, the said aspects have not been taken note of by the court below, while considering the petition for discharge and, therefore, the present order of the court below deserves to be set aside.

6. Per contra, learned Government Advocate (Criminal Side) submitted that the trial court not only took into account the materials available on record, but also took into consideration the order passed by this Court in Crl. O.P. (MD) No.10405/2014 and dismissed the discharge petition and, therefore, no interference is warranted with the order passed by the Court below.

7. This Court gave its anxious considerations to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

8. From a perusal of the order passed by the learned Magistrate, it is evident that detailed reasons have been spelt out by the learned Magistrate indicating that sufficient materials are available on record to dismiss the discharge petition. Moreover, the learned Magistrate has also rightly taken into consideration the fact that the petitioner had filed Crl. O.P. (MD) No.10405/14 before this Court for quashment of the FIR and this Court had dismissed the said petition on the ground that there was sufficient materials available to proceed against the petitioner/accused.

9. While the petition seeking for quashment of FIR was dismissed by this Court holding that there were sufficient materials available to proceed against the petitioner/accused, it is not open to the petitioner herein, once again, to approach the trial court with a discharge petition, since this Court, prima facie, concluded that there were enough materials to proceed against the accused/petitioner. Therefore, the trial court was right in passing the order of dismissal on the basis of the order passed by this Court in Crl. O.P. (MD) No.10405/14. Even otherwise, it appears that the trial court has give more than sufficient and adequate reasons for subjecting the petitioner to trial. In any event, it is always open to the petitioner to come out unscathed after facing the trial and it is certainly not open to the petitioner to escape from the clutches of law at the very threshold by seeking his discharge from the charges. The petitioner herein, who was a Manager in the Co-operative Bank, himself of complete responsibility in the fraud



detected by the respondent police and, therefore, if he has a strong case of his innocence, it is always open to him to prove his innocence in the trial.

10. Therefore, this Court is of the considered view that no prejudice would be caused to the petitioner if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. On the other hand, the petitioner, being the first accused, cannot be let off by discharging him from the charges as that would completely undermine the alleged fraud of several conspirators, which is the subject matter of criminal trial pending against them.

11. For all the reasons aforesaid, this Court does not find any infirmity in the order passed by the Court below and, hence, this revision petition lacks merit and the same is dismissed. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1) The Judicial Magistrate No.III
(CCIW), Madurai.

2. Inspector of Police
Commercial Crime Investigation Wing
(CCIW), Dindigul
Dindigul District.

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-86474[F] dated 13/09/2019)

**CRL. R.C. (MD) NO. 459 OF 2019
13.09.2019**

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