



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

Crl.R.C.(MD)No.697 of 2019

and

Crl.M.P(MD)Nos.8171 & 8172 of 2019

K.Nawab Raja

: Petitioner/Accused No.6

Vs.

The Inspector of Police,
District Crime Branch,
Madurai District.

In Crime No.06 of 2005

: Respondent/Complainant

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records and set aside the order passed by the learned Judicial Magistrate No.I, Madurai in Cr.M.P.No.2961 of 2010 in C.C.No.9 of 2010, dated 19.07.2019 and allow this Criminal Revision Petition.

For Petitioner

: Mr.N.Ananthapadmanabhan
for M/s. APN Law Associates

For Respondents

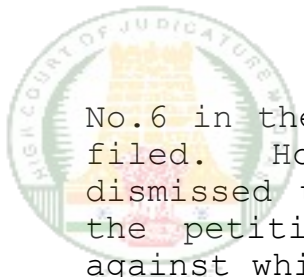
: Ms.Anantha Devi
Government Advocate [Criminal Side]

O R D E R

The present Criminal Revision Petition has been filed against the order passed by the learned Judicial Magistrate No.I, Madurai in Cr.M.P.No.2961 of 2010 in C.C.No.9 of 2010, dated 19.07.2019, dismissing the discharge petition filed by the petitioner herein under Section 239 of the Criminal Procedure Code. The petitioner was shown as Accused No.6 in the criminal case registered against him along with the other accused under Section 304 (A) of the Indian Penal Code in Crime No.110 of 1998.

2.According to the prosecution, the petitioner along with other accused had colluded together and attempted to defraud the Insurance Company towards wrongful claim of insurance amount.

3.According to the petitioner, he was being illegally framed up in the criminal case since he has no role at all. According to him, he was neither the owner of the vehicle nor engaged as driver, and since the petitioner was shown as Accused



No.6 in the criminal case and therefore, the discharge petition was filed. However, advertent to various averments, the trial Court dismissed the discharge petition stating that the points raised by the petitioner could be considered only at the time of trial, against which the present petition is filed.

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4.The learned Judicial Magistrate after taking note of the contents of the allegations made against the petitioner and the other accused has ultimately found that the averments contained in the discharge petition has to be proved only during the trial and materials which were relied on by the petitioner can be considered only at the time of trial and on that basis, the discharge petition was not allowed.

5.The learned Judicial Magistrate taking note of all the materials, has rightly held that mere suspicion is enough to frame the charge against the accused. Infact, detailed order has been passed by the learned Judicial Magistrate while dismissing the discharge petition. The operative portion of the order passed by the learned Judicial Magistrate is extracted hereunder for better clarity:-

"Heard both side. Documents perused. The petitioner contended that there is no necessity for him to involve in the claim petition to claim compensation for the Accused No.1 to 4. On the date of accident on 03.06.1998 this petitioner is not at all the owner of the vehicle bearing No.MDA-1843 alleged to have involved in the accident and at the time of accident one Rahmath Nisha of Keelakkarai was the real owner of the vehicle. No witnesses mentioned in the list of witnesses disclosed the name of the petitioner as owner of the vehicle on any account. On the other hand, the respondent contended that in a way to make a effective Road accident claim and in a way to help the deceased family the accused Nos.1 to 4 this case, this petitioner/Accused arranged for a driver having driving license to admit the case in C.C.No.50 of 2001 as the accused who drove the vehicle and to admit the offence before the jurisdictional Court Judicial Magistrate Court, Thirumangalam and admitted the offence of 304 (A) I.P.C and paid a fine of Rs.4,300/-.

All the above facts would be derived only after full trial. The averments made by this petitioner / accused in his discharge petition are to be proved through trial of the case only and now the materials cannot be considered and a mini trial cannot be conducted and all the averments are materials to prove his defence and they may not form part of discharging this accused at this stage. Mere suspicion is enough to frame the charge. As this stage this Court cannot come to a



In the result, for the foregoing reasons, this Court not inclined to discharge the petitioner / Accused No.6 and hence, this petition stands dismissed."

6.From the above, it could be seen that the learned Judicial Magistrate has given cogent reasons for not accepting the discharge petition filed by the petitioner. Infact, the learned Judicial Magistrate has held that a mini trial cannot be conducted by analysing the materials relied on by the petitioner, and, therefore, held that the discharge petition is not maintainable and dismissed the same.

7.This Court in the entirety of circumstances after perusing the materials available on record does not find any infirmity in the order passed by the learned Judicial Magistrate. This Court finds no reason to interfere with the order passed by the Court below and hence, the same is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The Judicial Magistrate No.I, Madurai.

2.The Inspector of Police,
District Crime Branch,
Madurai District.

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

ORDER MADE IN
Crl.R.C.(MD)No.697 of 2019
and

Crl.M.P(MD)Nos.8171 & 8172 of 2019
24.09.2019

JMN(22.10.2019) 3P : 4C