IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.11.2020

PRONOUNCED ON : 10.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.No.965 of 2020
and CRl.M.P.Nos. 6678 & 6679 of 2020

Parameswaran .. Petitioner/A5

Vs.

Inspector of Police
Vigilance and Anti-Corruption
Salem
(Cr.No.4/AC/2008) .. Respondent/Complainant

Criminal Revision preferred under Section 397 to set aside the order of the Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem passed in Crl.M.P.No.457 of 2019 in Spl.C.C.No.4 of 2016 dated 29.11.2019 and discharge the petitioner.

For Petitioner : Ms.J.Prithivi

For Respondent : Mrs.P.Kritika Kamal
Govt. Advocate (Crl. Side)

O R D E R

This matter is taken up for hearing via video conferencing.

2. This criminal revision has been preferred to set aside the order dated 29.11.2019 passed by the Special Judge (Special Court for Trial of Cases under the Prevention of Corruption Act), Salem in Crl.M.P.No.457 of 2019 in Spl.C.C.No.4 of 2016.

3. Heard Ms.J.Prithivi, learned counsel for the petitioner and Mrs.P.Kritika Kamal, Govt. Advocate (Crl. Side) appearing for the respondent.

4. The petitioner was working as Record Clerk/in charge Secretary in Seelavari Co-operative Society. His

sister-in-law (L.W.5) urgently needed Rs.3,00,000/- for certain expenses. While she was looking out for a bank loan, the petitioner approached her and told her that he has influence with the office bearers of Bharat Ratna Dr.M.G.R. Co-operative Housing Society and that, he would arrange a loan for her. The petitioner called Sundari to come along with her house documents to the office of the Sub Registrar during February 2004 and made her sign certain documents. She implicitly believed that and signed certain documents, after which, she did not receive any money as promised by the petitioner. However, investigation conducted by the police revealed that the petitioner (A5) along with A1 to A4 had conspired to misappropriate money from Bharat Ratna Dr.M.G.R. Co-operative Housing Society, pursuant to which, they set up A3 as Sundari and gave a cheque dated 16.02.2004, in her name for Rs.2,79,000/- and shared the amount. The police completed the investigation and filed a charge sheet in Spl.C.C.No.4 of 2016 before the Special Court for Prevention of Corruption Act Cases, Salem against five accused including the petitioner herein (A5), for the offences under Section 120-B read with 167, 465, 467, 468, 409, 420 and Section 109 IPC and under Section 13(2) read with 13(1)(c) and (d) of the Prevention of Corruption Act, 1988. The petitioner filed Crl.M.P.No.457 of 2019 in Spl.C.C.No.4 of 2016 under Section 239 Cr.P.C. for discharging him from the prosecution, which has been dismissed by the trial Court on 29.11.2019, aggrieved by which, the petitioner has preferred the present Criminal Revision.

5. Learned counsel for the petitioner strenuously contended that the petitioner was not working in Bharat Ratna Dr.M.G.R. Co-operative Housing Society, but, was working in Seelavari Co-operative Society and therefore, he has been falsely implicated. She further contended that except the Section 161 Cr.P.C. statement of Sundari (L.W.5), Balaraman (L.W.6) and Shantha (L.W.36), there are no other materials to implicate the petitioner. Learned counsel also contended that Balaraman (L.W.6) and Shantha (L.W.36) are the parents of Sundari (L.W.5).

6. Per contra, learned Government Advocate (Crl. Side) refuted the said contentions and contended that there are more than prima facie materials to frame charges against the petitioner.

7. This Court gave its anxious consideration to the rival submissions.

8. The judgments of the Supreme Court for discharging an accused from a prosecution are a legion and the Supreme Court has very clearly held that, even if there was a strong suspicion, the accused cannot be discharged. (Reference vide State of Tamil Nadu Vs. N.Suresh Rajan and Others [(2014) 11

SCC 709]) In this case, a reading of the statement of Sundari (L.W.5) clearly shows that, she was taken by the petitioner to the Sub Registrar's office for signing certain documents and thereafter, she was not given any money. Whereas, in the name of Sundari (L.W.5), A3 has taken a cheque for Rs.2,79,000/-, based on the loan application that was obtained from Sundari (L.W.5). Sundari (L.W.5) was shown the signature in the cheque issue register maintained by the Co-operative Society and she has stated that the signature found therein, was not put by her and that, she would normally sign as B.Sundari in English. Her statement has been corroborated by her father Balaraman (L.W.6) and mother Shantha (L.W.36). When there are such overwhelming materials against the petitioner, the contention that there are no prima facie materials to frame charges against him, lacks merit.

In the result, this Criminal Revision is dismissed as being devoid of merits. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

gya

To

1.The Special Judge
Special Court for Trial of Cases under the
Prevention of Corruption Act, Salem

2.The Inspector of Police
Vigilance and Anti-Corruption
Salem

3.The Public Prosecutor
High Court of Madras.

SSI(CO)
CB(09/12/2020)