



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

1.Crl.R.C.No.166 of 2020

and

Crl.M.P.Nos.1265 and 1267 of 2020

S.Veera Jagadeesan

...Petitioner/2<sup>nd</sup> Accused

..vs..

State rep.by

The Inspector of Police (Crime),

S-9, Palavanthangal P.S.

Chennai.

...Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to call for the entire records on the file of the Judicial Magistrate Court, Alandur in C.C.No.513 of 2010 and to set aside the impugned order in C.M.P.No.781 of 2018.

For Petitioner : No representation

For Respondent : Mr.S.Sugendran  
Government Advocate (Crl.Side)

#### O R D E R

This Criminal Revision Case has been filed against the order dated 19.05.2019 passed in C.M.P.No.781 of 2018 in C.C.No.513 of 2010 by the learned Judicial Magistrate, Alandur.

2.It is seen from the records that the respondent police registered a case in Crime No.310 of 2009 against the petitioner and two others for the offence under Sections 448, 341, 294(b), 387, 201, 506 (ii) r/w 34 IPC. On completion of the investigation, the respondent police filed a charge sheet before the Judicial Magistrate, Alandur and the same was taken on file in C.C.No.513 of 2010. During the pendency of the case, the petitioner, who was arrayed as A2, filed a petition under Section 239 Cr.P.C to discharge him from the said case. After hearing the arguments and considering the entire materials, the learned Magistrate dismissed the petition. Challenging the said order, the petitioner is before this



3.The Calendar Case is pending from the year 2010, discharge petition has been filed in the year 2018, impugned order has been passed in the year 2019 and now the revision case is pending for two years. Today, when the matter is taken up for hearing, there is no representation for the petitioner, this Court is inclined to dispose of the case on merits after hearing the arguments of the learned Government Advocate (Crl.Side) for the respondent and also on perusal of the records.

4.Admittedly, the petitioner who was arrayed as A-2 in C.C.No.513 of 2010 filed the petition under Section 239 Cr.P.C to discharge him from the said case. After hearing, the Court below found that there are prima facie materials to proceed the case further against the petitioner and dismissed the petition on 19.05.2019.

5.It is a well settled proposition of law at the time of deciding the petition under Section 239 Cr.P.C, the Court has to see the charge sheet filed by the prosecution under Section 173(2) Cr.P.C and the documents annexed with, but, not the defence taken by the accused and the documents produced by the accused at the stage. Further, the Court cannot conduct roving enquiry at this stage on the materials produced along with final report and only has to see whether there is any prima facie allegations or incriminating materials against the accused.

6. On a careful perusal of grounds of revision and the final report filed before the trial Court, this Court finds that there are prima facie materials and allegations against the petitioner and this Court cannot conduct roving enquiry at this stage on the materials produced by the prosecution. However, the defence taken by the accused can be decided during trial but, not at this stage.

7.In view of the above, this Court does not find any perversity or illegality in the order passed by the learned Magistrate and hence, this Criminal Revision Case is dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed. However, the petitioner is liberty to take all his defence before the trial Court, during trial.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar



To

1.The Judicial Magistrate,  
Alandur.

2.The Chief Judicial Magistrate,  
Chengalpet.

3.The Inspector of Police (Crime),  
S-9, Palavanthangal Police Station,  
Chennai.

4.The Public Prosecutor,  
High Court, Madras.

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and

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GJ (CO)  
PR (29/12/2021)