

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.2210 of 2021

and

Crl.M.P Nos.1266, 1269 & 1270 of 2021

K.Chitra

...Petitioner

Vs

The State, Rep. by
The Inspector of Police
District Crime Branch
Namakkal,
Namakkal District
Crime No.43 of 2012

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 30.11.2020 made in CRP No.8 of 2020 passed by the learned Principal District and Sessions Court, Namakkal, reversal of the order of discharge dated 29.12.2017 made in CMP No.7495 of 2017 in C.C No.111 of 2017 on the file of the learned Judicial Magistrate No.I, Namakkal by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

सत्यमेव जयते
O R D E R

This petition has been filed challenging the order passed by the Court below in C.R.P No.8 of 2020 dated 30.11.2020.

2. The respondent police registered an FIR in Crime No.43 of 2012 as against three accused persons for an offence under Sections 417, 468, 471 and 420 IPC. The petitioner was not shown as an accused in the FIR and there was no allegation against the petitioner. On the completion of the investigation, apart from three accused persons, the petitioner was also added as an accused and she was arrayed as A4 in the final report.

3. The petitioner filed a discharge petition before the Judicial Magistrate No.I, Namakkal, under Section 239 of Cr.P.C on the ground that there are absolutely no materials to rope in the petitioner as an accused person in the final report and therefore, the petitioner sought for discharge. The learned Judicial Magistrate No.I, Namakkal, by an order dated 29.12.2017, found that there are no materials against the petitioner to show her involvement in the case and consequently, the petitioner was discharged from the case.

4. Aggrieved by the same, the respondent police filed a revision before the Court below. The Court below, by an order dated 30.11.2020 allowed the criminal revision petition and thereby set aside the order passed by the learned Judicial Magistrate and sustained the objections made by the respondent. Thereby, the petitioner was directed to face the proceedings before the trial Court. Aggrieved by the same, the present petition has been filed before this Court under Section 482 of Cr.P.C.

5. Mr. N.Manoharan, the learned counsel appearing on behalf of the petitioner submitted that there is absolutely no material against the petitioner to implicate her in the present case. The learned counsel brought to the notice of this Court the 161 Cr.P.C statement recorded from LW1 to LW.14 and submitted that all these witnesses have only spoken about the involvement of A1 to A3 and there is nothing stated against the petitioner to rope her in as an accused in this case. The learned counsel further submitted that the Court below has taken into consideration the statement given by LW6 and has come to a conclusion that the statement given by LW6 is enough to make the petitioner undergo the ordeal of trial. The learned counsel for the petitioner submitted that the Court below instead of reading the entire statement of LW6 choose to pick a few lines from the statement and has arrived at a conclusion that the petitioner is also involved in the present case and that she has to face the trial.

6. The learned Additional Public Prosecutor appearing on behalf of the respondent police brought to the notice of this Court the statement of LW6 and submitted that this witness has specifically stated that he had deposited the money only through the petitioner and therefore, the involvement of the petitioner has been spoken by this witness. The learned Additional Public Prosecutor further submitted that the petitioner is none other than the wife of A1 and she was completely aware about the business that was carried on by her husband and she also formed part of the same and therefore, there are absolutely no grounds to interfere with the order passed by the Court below and the

petitioner has to necessarily undergo the trial and prove her innocence.

7. This Court has carefully considered the submissions made on either side and materials available on record.

8. This Court has carefully gone through the statements of LW1 to LW14 who were examined in the course of investigation. All these witnesses have spoken about the involvement of A1 to A3 in this Case. The Court below has placed reliance upon the statement of LW6, namely, one Mr.R.Subramaniyan, who was one of the depositors whose money has not been repaid and he was cheated. This witness has stated that he joined the scheme conducted by A1 in the year 1999 and he was depositing the interest only through the petitioner. This is the only statement that is available against the petitioner in the entire materials that was collected in the course of investigation.

9. The petitioner has been roped in for the charge of criminal conspiracy. This would require prior meeting of minds among the accused persons and something should have been done pursuant to the conspiracy among the accused persons. The statement of LW6 cannot even be prima facie taken as a material against the petitioner to undergo the ordeal of trial for the charge of criminal conspiracy. Right from the stage of complaint, till the filing of the final report, all the witnesses have spoken only about the role played by A1 to A3. Admittedly, the petitioner has not signed any document and her name does not find place anywhere in the course of investigation. The one casual allegation made by LW.6 can never be taken to be a material against the petitioner to make her undergo the ordeal of trial for the charge of criminal conspiracy. Even if the statement of LW6 is taken as it is, it does in any way constitute a material for criminal conspiracy against the petitioner. सत्यमेव जयते

10. The trial Court has discussed the entire case in detail and on considering the materials, the trial Court came to a correct conclusion that there are no materials against the petitioner to implicate her in the present case and discharged the petitioner. The revisional court interfered with the order of the trial Court only based on the statement of LW.6 and this Court has already held that the statement of LW6 does not constitute a prima facie material against the petitioner.

11. In view of the above, the continuation of the proceedings against the petitioner will amount to abuse of process of court and the same requires the interference of this

Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

12. In the result, the order passed by the learned Judicial Magistrate No.I, Namakkal in C.M.P No.7495 of 2017 in C.C. No.111 of 2017, is hereby sustained and the order passed by the Principal District and Sessions Judge, Namakkal, in C.R.P No.8 of 2020 is hereby set aside.

13. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I,
Namakkal.
2. The Principal District and Sessions Judge
Namakkal
3. The Inspector of Police
District Crime Branch
Namakkal
Namakkal District
4. The Public Prosecutor,
High Court, Madras.

+6cc to Mr.N.Manokaran, Advocate, SR.No.7654 and 7972

AKM/9.3.21 /4P-11C/

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