

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.199 of 2021 &
Crl.M.P.No.4740 of 2021

V.Subramanian

... Petitioner

Vs.

State rep.by the
Inspector of Police,
(Land Grabbing Wing),
Tiruppur.

... Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order passed in M.P.No.2192 of 2020 in C.C.No.83 of 2019, on the file of the learned Judicial Magistrate No.1, Udumalpet, Tirupur District, dated 30.11.2020.

For Petitioner : Mr.S.Sathya Narayanan

For Respondent : Mrs.T.P.Savitha
Government Advocate (Criminal Side)

O R D E R

This petition has been filed challenging the order passed by the learned Judicial Magistrate No.1, Udumalpet, Tirupur District in M.P.No.2192 of 2020 in C.C.No.83 of 2019, dated 30.11.2020.

2. The respondent-Police registered a case against the petitioner in C.C.No.83 of 2019, for the offence under Section 120 (B), 420, 468, 471 of IPC against the petitioner and the other accused and the petitioner herein has been arrayed as A2. Pending the above case, the petitioner/accused has filed the petition under Section 239 of Cr.P.C., seeking discharge. The learned Magistrate, by an order dated 30.11.2020, had dismissed the petition, against which, the petitioner is before this Court with the present revision.

3. The learned counsel for the petitioner would submit that totally there are three accused. During the investigation, the prime accused /first accused, who said to have executed agreement along with the petitioner, and one Mayilsamy/stamp vendor, third accused, died and hence, the proceedings initiated against them were dropped and there is no specific allegation against this petitioner. The Investigating Officer has not conducted a fair enquiry and even, the petitioner was not examined by the Investigating Officer and none of the accused have been examined by the Investigating Officer during the investigation and recorded statements. Further, the case pertains to civil in nature and allegations are based on documents and there is no any specific allegation against this petitioner. However, the learned Magistrate, without considering the facts, dismissed the petition filed under Section 239 of Cr.P.C, which warrants interference.

4. The learned Government Advocate (Criminal Side) would submit that the prime accused / first and the third accused died and this petitioner was arrayed as A2 and there are specific allegation against this petitioner. The investigation reveals that the petitioner was involved in the commission of offences and therefore, the respondent-Police filed the charge sheet. Since there is enough materials to proceed against the petitioner, the trial Court has rightly dismissed the petition filed under Section 239 of Cr.P.C filed by the petitioner, which does not warrant interference by this Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) for the respondent and perused the materials placed on record.

6. On a reading of the entire materials on record, it is seen that there are prima facie materials against the petitioner for initiation of this case. The Investigating Officer need not examine the accused at the time of investigation. It is well settled proposition of law that while deciding the petition under Section 239 of Cr.P.C., the Court has to see the final report filed by the Investigating Officer under Section 173 Cr.P.C. and documents annexed therein. Further the defense taken by the accused and documents produced by the accused need not be considered at this stage, and the same can be decided at the time of deciding the case after the trial. Therefore, in this case a perusal of the entire materials prima facie allegations have been levelled against the petitioner and the statement of witnesses also leads to incriminating circumstances. Hence, this Court does not find any perversity in the order passed by the Court below. There is no infirmity or

illegality in the order passed by the learned Magistrate. Hence, this revision is liable to be dismissed and accordingly dismissed. The learned Judicial Magistrate No.I, Udumalpet, is directed to expedite the trial and dispose the case. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate No.1, Udumalpet,
Tirupur District.
2. The Inspector of Police,
(Land Grabbing Wing),
Tiruppur.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Selvaraj, Advocate SR.No.23707

Cr1.R.C.No.199 of 2021 &
Cr1.M.P.No.4740 of 2021

SSM(CO)
GMY (22/06/2021)

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