



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:28.10.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C.No.245 of 2020
and
Cr1.M.P.No.1768 of 2020

1.Suresh
2. Meena

...Petitioners

Vs.

State of Tamil Nadu Rep by
The Inspector of Police (Crime)
B-1 North Beach Police Station
Rajaji Salai, Chennai.

...Respondent

Prayer : The Criminal Revision is filed under Section 397 read with 401 Cr.P.C. to call for the records in respect of the impugned order of dismissal dated 12.12.2019 in Cr.M.P.No.1983 of 2019 in C.C.No.1724 of 2018 of the learned VII Metropolitan Magistrate Court, GT, Chennai and set aside the same and consequentially allow the revision.

For Petitioners: Mr.A.Thirumaran

For Respondent : Mr.S.Sugendran
Government Advocate (Cr1. Side)

ORDER

(The case is heard through video conference)

The Criminal Revision case has been filed against the order dated 12.12.2019 in Cr.M.P.No.1983 of 2019 in C.C.No.1724 of 2018 passed by the learned VII Metropolitan Magistrate, George Town, Chennai.

2. The petitioners are arrayed as A2 and A4 in C.C.No.1724 of 2018 on the file of learned VII Metropolitan Magistrate, George Town, Chennai. The respondent police registered a in Crime No.1416 of 2017 against the petitioners and three others



for the offences under Sections 341, 363, 323 and 506(1) IPC and after completing the investigation, laid the charge sheet before the learned VII Metropolitan Magistrate, George Town, Chennai. The learned Magistrate taken the charge sheet on file in C.C.No.1724 of 2018 and during pendency of the said Calender Case, the petitioners/A2 and A4 invoking Section 239 Cr.P.C. filed a petition in Cr.M.P.No.1983 of 2019 to discharge them from the above said case and the learned Magistrate after hearing, dismissed the same by order dated 12.12.2019. Challenging the said order, now the petitioners/A2 and A4 have filed the present revision before this Court.

3. The learned counsel for the petitioners would submit that there is no incriminating material or prima facie allegations against the petitioners. Further, already A1 and A3 in this case had filed a petition for discharge and the same was allowed whereas, the learned Magistrate based on the very same materials and statements, dismissed the petition filed by the petitioners herein. Therefore, the order passed by the learned Magistrate is perverse and the order is liable to be set aside.

4. The learned Government Advocate (Crl. Side) would submit that the witnesses have clearly spoken that on the instigation of the petitioners/ A2 and A4, the victim was kidnapped and there are enough materials against the petitioners herein to proceed the case. Therefore, the trial Court rightly dismissed the petition and there is no merit in the revision and the revision is liable to be dismissed.

5. Heard the learned Counsel for the petitioners and learned Government Advocate (Crl. Side) and also perused the records.

6. Admittedly the petitioners are shown as A2 and A4. On a perusal of the final report filed by the respondent police before the VII Metropolitan Magistrate, George Town, Chennai, shows that prima facie case is made out against the petitioners. Though the learned counsel for the petitioners contended that the statements made by the witnesses are not proved, it is well settled proposition of law that at the time of deciding the petition under 239 Cr.P.C., the Court has to see the final report filed by the Investigating Agency and also the Annexures there on and if incriminating materials available and prima facie case is made out, the Court can proceed further and the validity and admissibility of the documents need not be considered at that stage and it can be decided only after the trial. At the time of deciding the petition under Section 239 Cr.P.C., the Court need not consider the defence taken by the



accused and the trial Court cannot conduct roving enquiry on documents produced with the final report filed by the Investigating Agency under Section 173(2) of Cr.P.C. Though the learned Counsel for the petitioners contended that A1 and A3 have been discharged by the learned Magistrate from the very same materials and witnesses, that may not be a sole ground for the petitioners for seeking relief of discharge.

7. Therefore under these circumstances, this Court does not find any perversity or illegality or infirmity in the order passed by the learned Magistrate and there is no merit in the revision and the revision is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

8. Since the matter is pending from the year 2018, the learned VII Metropolitan Magistrate, George Town, Chennai, is directed to frame charges and complete the trial in C.C.No.1724 of 2018 within a period of 6 months from the date of receipt of a copy of this order.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

Dsn
To

1. The VII Metropolitan Magistrate,
George Town, Chennai,
2. The Inspector of Police (Crime)
B-1 North Beach Police Station
Rajaji Salai, Chennai
3. The Public Prosecutor Officer,
High Court, Madras.
4. The Section Officer,
Criminal Section,
High Court, Madras.

Cr1.R.C.No 245 of 2020

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srg 27/12/2021