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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.427 of 2021
and
Crl.M.P.No.6920 of 2021

Kathirvel ... Petitioner/Accused

Vs.

State rep by
The Inspector of Police,
Rasipuram Police Station,
Namakkal District.
Crime No.218 of 2011 ... Respondent/Complainant

PRAYER:

This Criminal Revision is filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order dated 21.12.2020 made in C.M.P.No.68 of 2020 in S.C.No.146 of 2018 on the file of the learned Subordinate Judge, Rasipuram, Namakkal by allowing the present Criminal Revision Petition.

For Petitioner : Mr.K.Kannan

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

O R D E R

The present criminal revision has been filed to set aside the order dated 21.12.2020 made in C.M.P.No.68 of 2020 in S.C.No.146 of 2018 on the file of the learned Subordinate Judge, Rasipuram, Namakkal by allowing the present Criminal Revision Petition.

2. The respondent/police registered a case in Crime No.218 of 2011 against the petitioner and 6 others for the offence under Sections 120(b) and 399 of IPC.

3. After investigation, the respondent police laid a charge sheet before the learned Subordinate Judge, Rasipuram and the



learned Subordinate Judge taken charge sheet on file and he committed the case to the court of session and the learned Judge considered the same in S.C.No.146 of 2018 and made over the case to the file of Assistant Sessions Court, Rasipuram.

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4. During the pendency of the case, the petitioner is arrayed as A1 in the said case. During the pendency of the case, A1 filed a petition in C.M.P.No.68 of 2020 under Section 227 of Criminal Procedure Code, to discharge his name in the session case.

5. Learned Assistant Sessions Judge, after enquiry, dismissed the same. Challenging the said order, the petitioner is before this Court by way of this revision.

6. Learned counsel for the petitioner would submit that the petitioner is arrayed as A1 in the case based on the confession statement given by the 2nd accused. The 2nd accused was arrested by the respondent/police on 16.03.2011 as mentioned in the final report and the petitioner has not committed any offence. The defacto complainant is the wife of the petitioner and she made a false case against him and they have no materials to connect the petitioner in this case and the petitioner is not involved in this case. Therefore, he filed the petition before the Assistant Sessions Judge to discharge him and the learned Assistant Sessions Judge has not considered the materials. The evidence of the prosecution witness is not sufficient to prove the case of the prosecution against the petitioner and without considering the same, the learned Judge, simply dismissed the discharge petition, which warrant interference.

7. Learned Government Advocate (Crl.Side) would submit that the complainant/Chitra, is wife of the petitioner and he suspected Chitra and one Paramasivam that as they are having illegal intimacy. Therefore, the petitioner entered into conspiracy with the other accused and he engaged the other accused to take away the life of the Cithra and Paramasivam and also looted the property of the defacto complainant. The statement of LW.1 to LW.3 spoken about the involvement of the petitioner in this case and prima facie, incriminating materials is against the petitioner and the same are available in this case and hence, the Trial Court rightly dismissed the petition, after considering the materials placed by the prosecution and there is no merit in this revision and the same is liable to be dismissed.

8. Heard both sides and perused the materials available on record.

9. Admittedly, the petitioner is the husband of



witness/Chitra. They married each other about 26 years ago. Out of the wedlock, they have a daughter and a son. About 8 years before the occurrence, there were rifts between them and the witness/Chitra is residing in the house of witness/Paramasivam, who is her cousin, for the past 4 years. She got some lands through her parents and out of the said lands, she alienated some lands and kept the remaining for herself by letting it on lease/tenancy. The petitioner suspecting as if Chitra had been living in adultery with the witness Paramasivam, he developed vengeance to wreak against both of them. Therefore, he decided to eliminate both witnesses Chitra and Paramasivam by engaging hooligans. He also decided to cause looting of their valuables, after they entered into the conspiracy.

10. The above said allegation has been spoken by the witnesses LW.1 to LW.3 and there is prima facie materials available and there are incriminating materials against the petitioner and there are sufficient grounds to frame charge and proceed the case further. At the stage of framing of charge, the Court has to consider the material with a view to find out if there is sufficient ground for prosecuting that the accused has committed the offence and not for the purpose of arriving at the conclusion that it is not likely to lead to a conviction.

11. Accordingly, the present criminal revision is dismissed in the admission stage itself. Consequently, the connected criminal miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

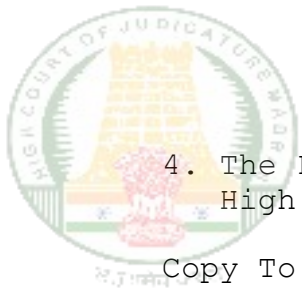
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Sub Assistant Registrar

dm

To

1. The Subordinate Judge,
Rasipuram, Namakkal.
2. The Assistant Session Judge,
Rasipuram
3. The Inspector of Police,
Rasipuram Police Station,
Namakkal District.



4. The Public Prosecutor,
High Court, Madras.

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The Section Officer,
Criminal Section,
High Court Madras.

Cr1.R.C.No.427 of 2021

PCH(CO)
CT/17/08/2021