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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON 19.08.2021	ORDERS PRONOUNCED ON 14.09.2021
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1683 of 2016
and
Crl.M.P.No.13965 of 2016

Manirathinem

.. Petitioner/A.15

.. Vs ..

State rep. by its
The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore.

.. Respondent/Complainant

PRAYER : Criminal Revision Case filed under Section 397 r/w. 401 of the Criminal Procedure Code, against the order dated 23.11.2016 passed by the Assistant Sessions Court (Sub Court), Chidambaram, in Crl.M.P.No.704 of 2016 in S.C.No.66 of 2016.

For Petitioner : Mr.T.Ramesh

For Respondent : Mr.R.Vinoth Raja,
Government Advocate

ORDER

The matter is heard through "Video Conference".

The petitioner, who is accused No.15 in S.C.No.66 of 2016, has filed a petition in Crl.M.P.No.704 of 2016 under Section 227 of Cr.P.C. before the Assistant Sessions Court (Sub Court) at Chidambaram, seeking to discharge him from the above said sessions case in S.C.No.66 of 2016 and the said petition was dismissed and hence, the present criminal revision case has been filed before this Court.

2. The case of the prosecution is that on 08.08.2015, the accused persons numbering about 14 entered the TASMACH shop with iron rods and sticks and also attacked the de facto complainant at the instigation of accused Nos.15 to 17. The de facto



complainant is one Jaganathan, Salesman at TASMAL shop. The accused persons also alleged to have damaged the liquor bottles worth about Rs.15,000/-. On the basis of the complaint given by the de facto complainant, the respondent police has registered FIR in Crime No.172 of 2015 for the offences under Sections 147, 148, 332, 307 and 201 of IPC r/w. Section 3 of TNPPD Act and also filed a charge sheet against accused Nos.1 to 14 for the offences under Sections 147, 148, 332 and 307 of IPC r/w. Section 3 of TNPPD Act and against accused Nos.15 to 17 for the offence under Section 201 of IPC.

3. Learned counsel for the petitioner stated that the petitioner is a business man and his wife is a former President of the Nattarmangalam Panchayat union and due to the political controversy, his name has been tagged on.

4. Heard the learned Government Advocate (Cr1.Side) and perused the records.

5. The petitioner has filed the above discharge petition alleging that as against accused Nos.15 to 17, charge is framed under Section 201 of IPC. But the statement of witnesses does not disclose any overt act in respect of the charge under Section 201 of IPC. To attract an offence under Section 201 of IPC, the essential ingredients to be established are as follows:-

(i) Committal of an offence; (ii) person charged with the offence under Section 201 of IPC must have the knowledge or reason to believe that an offence has been committed; (iii) person charged with the said offence should have caused disappearance of evidence; and (iv) the act should have been done with the intention of screening the offender from legal punishment or with that intention he should have given information respecting the offence, which he knew or believed to be false.

6. It is needless to say that to screen the offender committing an offence must be the primary and sole aim of the accused and mere suspicion is not sufficient. There must be some material on record as a cogent evidence to prove that the accused knew or had information sufficient to lead him to believe that the offence had been committed and that the accused has caused the evidence to disappear in order to screen the offender, known or unknown.

7. Relying upon the above legal position, the petitioner seeks to allow the above criminal revision case.

8. On perusal of the complaint, FIR, charge sheet and the statement of witnesses annexed to the final report, I find that



there is nothing on record to speak about the implicated commission of offence under Section 201 of IPC as stated in the charge sheet. In other words, the essential ingredients to satisfy the prima facie condition of presuming that the accused committing the offence under Section 201 of IPC is not found and in the absence of any material, this Court cannot be tried for the said offence. After perusing the statements, I find that the statements of witnesses are to the limited extent that the revision petitioner/A.15 and his wife namely Sudha/A.16 and his son Kamal @ Kamalakannan/A.17 have instigated the other accused Nos.1 to 14 to do the offence. But however, even for the charge under Section 107 of IPC, about the instigation, it is not satisfied and hence, the order passed by the trial Court is liable to be set aside.

9. In the result, this Criminal Revision Case is allowed and the order passed by the learned Assistant Sessions Judge (Sub Judge), Chidambaram, in Crl.M.P.No.704 of 2016 in S.C.No.66 of 2016, dated 23.11.2016, is set aside and the revision petitioner stands discharged from the sessions case in S.C.No.66 of 2016. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Jrl

To

1. The Assistant Sessions Judge (Sub Judge),
Chidambaram.
2. The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore.
3. The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.1683 of 2016

VSN-II (CO)

K.RK. (27.09.2021)