

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.195 of 2021
and
Crl.M.P.Nos.4707 and 4708 of 2021

Mohanapriya

... Petitioner

...vs...

1.State rep. By
The Inspector of Police,
City Crime Branch,
Coimbatore,
Crime No.26 of 2014.

2.S.Arputharaj

... Respondents

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to call for the entire records relating to C.C.No.89 of 2020 on the file of the Judicial Magistrate No.7, Coimbatore and set aside the order dated 03.03.2021 made in C.M.P.No.6681 of 2021 and discharge the petitioner/accused -2 from the case.

For Petitioner :Mr.N.S.Siva Kumar

For Respondents:Ms.T.P.Savitha

Government Advocate (Crl.Side) for R1

O R D E R

Ms.T.P.Savitha, learned Government Advocate (Crl.Side) takes notice for the first respondent. By consent of both parties, the Criminal Revision Case is taken up for final hearing at the admission stage itself.

2.The Criminal Revision Case has been filed to call for the entire records relating to C.C.No.89 of 2020 on the file of the learned Judicial Magistrate No.7, Coimbatore and set aside the order dated 03.03.2021 made in C.M.P.No.6681 of 2021 and to discharge the petitioner/accused -2 from the above case.

3.The respondent police registered a case in Crime No.26 of 2014 against the petitioner and other accused for the offences under Section 120(B), 405, 467, 408 and 420 IPC,

later altered into Section 120(B), 465, 468, 408 and 420 IPC. After investigation the respondent police filed a charge sheet before the learned Judicial Magistrate No.VII, Coimbatore and the learned Magistrate taken cognizance of the charge sheet in C.C.No.89 of 2020. During the pendency of the case, the petitioner who was arrayed as A2 filed a petition under Section 239 Cr.P.C to discharge her from the said case. The learned Magistrate dismissed the petition, after enquiry. Challenging the said order, the petitioner is before this Court.

4.The learned counsel for the petitioner would submit that the petitioner was not involved in the said commission of offence and that there was no specific overt act as against the petitioner and she need not be proceeded with ordeal of trial. However, the trial Court has failed to consider the grounds raised by the petitioner and framed charges against the petitioner and simply dismissed the petition. Thus, the order passed by the learned Magistrate is liable to be set aside.

5.The learned Government Advocate (Crl.Side) would submit that the petitioner was involved in the offence under Section 120(B), 465, 468, 408 and 420 IPC. There was a specific overt act as against the petitioner and the final report/charge sheet was clearly levelled against the petitioner. She would further submit that the petitioner was examined by the Investigating Officer and her statement was recorded under Section 161 Cr.P.C. Therefore, the learned Magistrate has rightly dismissed the petition and the Criminal Revision Case is liable to be dismissed.

6.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the first respondent and also perused the materials available on record.

7.Admittedly, the petitioner was arrayed as A2 in C.C.No.89 of 2020 on the file of the learned Judicial Magistrate No.VII, Coimbatore. During the pendency of the case, the petitioner filed a petition under Section 239 Cr.P.C., which was dismissed by the learned Magistrate on 03.03.2021.

8. On a careful perusal of the entire materials and also considering the submissions made by the learned counsel on either side, this Court is of the opinion that, prima facie, while deciding the petition under Section 239 Cr.P.C, the trial Court has to see whether the charge sheet/final report filed by the prosecution reveals prima facie materials available to proceed further. The defence taken by the petitioner/accused need not gone into at this stage. This Court, while exercising the revisional jurisdiction cannot conduct roving enquiry at this stage.

9. In view of the same, this Court finds that prima facie materials are made out to frame charges against the petitioner/A2. Therefore, there is no perversity or illegality in the order passed by the learned Magistrate and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No. VII,
Coimbatore.

2. The Inspector of Police,
City Crime Branch,
Coimbatore,

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. N. S. Siva Kumar, Advocate SR.No.22925

Crl.R.C.No.195 of 2021
and

Crl.M.P.Nos.4707 and 4708 of 2021

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

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