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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No. 379 of 2021

1.Ganesh

2.Indhirani

... Petitioners/Accused 4 & 8

vs.

State Represented by
Deputy Superintendent of Police,
Economic Offence Wing,
Coimbatore.
(Crime.N: 1 of 2018)

... Respondent/Complainant

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records pertaining to Crl.M.P.No.1142 of 2020 in C.C.No.4 of 2020 passed by the Special Judge, Special Court under TNPID Act, Coimbatore and set aside the order dated 10.03.2021 by allowing this revision.

For Petitioners : Mr.A.Ramasamy
for Mr.K.Balasubramaniam

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

O R D E R

This Criminal Revision case has been filed to call for the records pertaining to Crl.M.P.No.1142 of 2020 in C.C.No.4 of 2020 passed by the Special Judge, Special Court under TNPID Act, Coimbatore and set aside the order dated 10.03.2021 by allowing this revision.

2. The respondent/police has registered a case against the petitioners and others in Crime No. 1 of 2018. After investigation, a charge sheet filed before the learned Special Judge, Special Court under TNPID Act, Coimbatore and the learned Special Judge taken the case on file in C.C.No.4 of 2020. When the case is pending, the petitioners herein/A4 and A8 filed a petition in Crl.M.P.No.1142 of 2020 in C.C.No.4 of 2020 under Section 239 of Criminal Procedure Code (hereinafter referred to as the Crl.P.C. for short) to discharge the petitioners from the above said case in C.C.No.4 of 2020. After enquiry, learned Magistrate dismissed the petition. Challenging the same, the petitioners have filed the present criminal revision case.



3. Learned counsel for the petitioners would submit that the petitioners are no way connected with this case and they are not involved in any commission of offence as alleged by the prosecution. There is no incriminating materials to connect these petitioners in this case and they are neither Managing Directors nor Directors of the company. They are not involved in the day-to-day affairs of the company. It is a settled proposition of law that the Managing Director or Director who had participated in the day-to-day affairs of the company alone is liable. Merely because, the accused persons are relatives of other accused, they are impleaded in this case as accused and there is no prima facie case against the petitioners and as such, the Trial Court failed to consider these facts and none of the witnesses have spoken about the involvement of the petitioners. Therefore, the order passed by the Trial Court is liable to be set aside and the petitioners have to be discharged from that case.

4. When the matter came up for hearing on the last occasion, learned Government Advocate (Crl.Side) was instructed to submit the statement recorded from the prosecution witnesses under Section 161 of Cr.P.C. Today, he has submitted the said statement under Section 161(3) of Cr.P.C. of some of the witnesses.

5. Heard both sides and perused the materials placed on record.

6. A perusal of the records would go to show that there is prima facie allegations against these petitioners also. At the time of deciding the petition under Section 239 of Cr.P.C., this Court cannot conduct roving enquiry on the materials placed by the prosecution. The Court has to see the final report filed by the prosecution and not defence taken by the accused. The Court would be justified in framing charges, if the prosecution has sown the seeds in the form of some incriminating material which has got the potential to develop itself into a full-fledged one during trial. Therefore, under these circumstances, this Court also on a reading of the entire materials, finds that there is prima facie allegations against the petitioners and incriminating materials are available. There is no merit in this revision. The revision case is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar



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To

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- 1.The Special Judge,
Special Court under TNPID Act,
Coimbatore.
- 2.The Deputy Superintendent of Police,
Economic Offence Wing,
Coimbatore.
- 3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K.Balasubramanian, Advocate, S.R.No.31601

Cr1.R.C.No.379 of 2021

SSD(CO)
SB(02/08/2021)