



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.03.2021

PRONOUNCED ON : 06.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.472 of 2019 and
CrI.M.P.Nos.6763 & 6764 of 2019

Vidya ...Petitioner/Accused
Vs.

1. The State Rep. by
The Inspector of Police,
M-1, Madhavaram Police Station,
Madhavaram, Chennai.

...1st Respondent/Complainant

2. B.Gajapathy ...2nd Respondent

(R2 impleaded as per order of this Court made in
CrI.M.P.No.19035 of 2019 in CrI.R.C.No.472/2019 dated 20.12.2019)

Criminal Revision Case filed under Sections 397 read with
Section 401 of Cr.P.C. to set aside the order passed by the
learned Judicial Magistrate, Tiruvottiyur in C.M.P.No.555 of
2016 in C.C.No.35 of 2015 pending on the file of the learned
Judicial Magistrate, Tiruvotriyur.

For Petitioner : Mrs.V.Vidya (Party-in-Person)

Respondents : Mrs.T.P.Savitha,
Govt. Advocate (CrI.Side) for R1
Mr.K.Gnana Amudhan for R2

O R D E R

The respondent police registered a case in Cr.No.528 of 2009
for the offence under Sections 406, 467, 468, 471 r/w 420 of IPC
against three accused and this petitioner was arrayed as A1.
After completing investigation, the respondent police laid a
charge sheet before the learned Judicial Magistrate,
Tiruvottiyur, which was taken on file in S.C.No.35 of 2015.
Pending trial, the petitioner has filed petition under Section
239 of Cr.P.C. seeking to discharge her from the charges

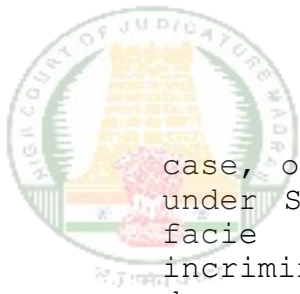


the trial Court to proceed with the trial. But, the petitioner, in order to protract the trial, is filing petition one after another, which act should not be entertained by this Court. Therefore, there is no reason to interfere with the order of the learned Magistrate dismissing the discharge petition filed by the petitioner.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. It is seen that the first respondent police registered case against the petitioner for the offence under Sections 406, 467 and 468 r/w 420 IPC and after completing investigation laid charge sheet before the learned Judicial Magistrate, Thiruvottiyur, and same was taken on file in C.C.No.35 of 2015. Even before filing of charge sheet, the petitioner approached this Court seeking to quash the very FIR itself and the same was dismissed. Subsequently after filing of charge sheet by the respondent police and the case was also taken on file in C.C.No.35 of 2015, the petitioner filed petition under Section 482 Cr.P.C. twice to quash the proceedings in the above calendar case and the same were also dismissed by this Court by directing the petitioner to participate in the trial and to expedite the trial. However, the petitioner subsequently has filed present petition under Section 239 of Cr.P.C seeking to discharge from the charges levelled against her. It is the case of the defacto complainant that she was in bad need of money and at that time she was introduced to the petitioner, who accepted to lend money for a sum of Rs.2.50 lakhs on mortgaging the property in dispute. Believing the words of the petitioner, on 24.04.2003, defacto complainant went to the Sub Registrar Office at Perambur and signed in the document, believed to be a mortgage deed, but later turned out to sale deed. Further the petitioner forged the signature of son of the defacto complainant, who is mentally retarded person.

8. It is settled proposition of law that at the time of deciding petition under Section 239 of Cr.P.C, seeking discharge, the Court has to see whether there exists any prima facie materials to proceed the case and the defence taken by the accused need not be looked into at the time of framing of charges. It is settled proposition of law that while considering petition for discharge of the accused, allegations and materials in the documents filed by the prosecution in the report under Section 173 Cr.P.C. must be considered and not the defence taken by the accused. Probative value of the evidence need not be gone into at this stage, if the Court would be justified in framing charges and the prosecution has shown the seed in the form of some incriminating materials which has got the potential to develop itself into a full fledged one during trial. In this



case, on a perusal of the final report filed by the prosecution under Section 173 Cr.P.C. and documents annexed to that, prima facie case made out against the petitioner and found incriminating material against the petitioner herein. This Court does not find perversity in the order of the Court below, warranting interference and there is no reason to interfere with the order passed by the learned Magistrate.

9. In the result, the criminal revision stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate, Tiruvottiyur.
 2. The Inspector of Police, M-1, Madhavaram Police Station, Madhavaram, Chennai.
 3. The Public Prosecutor, High Court of Madras.
- +2CCs to Mr.K.Gnanaamudhan, Advocate, Sr.No.31526

Pre-Delivery Order in
Crl.R.C.No.472 of 2019 and
Crl.M.P.Nos.6763 & 6764 of 2019

SSD (CO)
K.RK. (02.08.2021)