

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.1265 of 2020

1. Mohamad Fazludin Iqbal
2. Dr.Mohamed Sameer

...Petitioners/Accused

.Vs.

The Sub Inspector of police,
K-6 T.P.Chathram Police Station
Chennai District.

...Respondent/Complainant

PRAYER : Criminal Revision Case filed under Section 397 and 401 Cr.P.C. to set aside the judgment in Crl.M.P.No.3181/2018 in C.C.No.1026/2014 on the file of V Metropolitan Magistrate, Egmore dated 10.09.2020.

For Petitioners: Mr.V.Raghavachari

For Respondents: Mr.A.Madhan (Crl.side)
Government Advocate

O R D E R

This Criminal Revision has been filed seeking to set aside the judgment in Crl.M.P.No.3181/2018 in C.C.No.1026/2014 on the file of V Metropolitan Magistrate, Egmore dated 10.09.2020.

2. When this matter is taken up for hearing yesterday i.e., on 04.02.2021, the learned counsel for the petitioner sought time and therefore the matter was directed to be listed today and it is listed today. When the matter is taken up today, the learned counsel for the petitioner seeks adjournment and requested for video conferencing. However, this Court gone through the impugned order passed in Crl.M.P.No.3181 of 2018 filed under Section 239 of Criminal Procedure Code to discharge the petitioners/accused from the offences charged under Sections 341, 324 of I.P.C. r/w 34 of I.P.C. in C.C.No.1026 of 2014, in which it is seen that the respondent police after investigation

laid the Charge sheet before the Metropolitan Magistrate, Egmore and the same was taken on file in C.C.No.1026/2014 and the same is pending from 2014. Whereas the petitioner filed an application to discharge them from the charges in the year 2018 and the same was dismissed by the learned Magistrate on 10.09.2020. Challenging the said order, the petitioner is before this Court by way of this revision.

3. Heard both sides. Perused the materials available on record.

4.The learned Magistrate clearly stated in the impugned order that there is prima facie material for framing of charge as against the petitioners/accused and therefore the accused could not be discharged from the aforesaid offences. Challenging the same, the petitioner have filed this Criminal Revision.

5. The main grounds raised in this revision is that the learned Judge has not given any reasons for dismissing the petition filed under Section 239 of Cr.P.C. and mere reference to the documents is insufficient. Further, the petitioners have filed a complaint in Cr.No.597 of 2013, but the respondent police failed to investigate both the complaints together and filed a charge sheet in Cr.No.596 of 2013 separately and further the statement of the second respondent to the police during investigation in Cr.No.596 of 2013 states that the petitioner had attacked the second respondent. However, in C.C.No.581 of 2018, the gist of the complaint is that the accused persons attacked the respondent's son and not the second respondent.

4 A careful perusal of the records would go to show that the charge sheet filed by the respondents and also statement recorded from the witnesses shows that there is prima facie material for framing of charges as against the petitioners/accused. It is well settled preposition of law that while deciding the petition filed under Section 239 of Cr.P.C., this Court has to see the final report filed by the respondent police and the documents annexed with that. If there is prima facie material for framing of charge against the accused, the court can frame the charges and proceed with the trial. The defence taken by the accused need not be looked into at that stage. In the present case, the statement of the witnesses clearly shows that there is prima facie material for framing of charge as against the petitioners. The learned Magistrate rightly dismissed the application filed by the petitioners and there is no reason to interfere with the impugned order passed by the learned Magistrate. Further, the C.C is pending from 2014, after four years, the petitioners approached the learned Magistrate to discharge them from the charges and now filed the present revision only to protract the proceedings before the

trial Court. If the petitioner has got any grievance, he is at liberty to work out the remedy during the trial.

5. In view of the same, the Criminal Revision stands dismissed. However, since the C.C. is pending from 2014, the learned Magistrate is directed to frame charges, if not already framed and directed to proceed with the trial and dispose of the suit on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Sub Inspector of police,
K-6 T.P.Chatham Police Station
Chennai District.
2. The V Metropolitan Magistrate,
Egmore, Chennai.
3. The Public Prosecutor
High Court, Madras-104.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.688

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