

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN
Criminal Revision Case No.1292 of 2019
and Crl.MP.No.17515 of 2019

V.Baskar

... Petitioner

..vs..

State of Tamil Nadu

Rep.by SHO

Villupuram Taluk Police Station

Villupuram District,

Crime No.297 of 2014.

.... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records in C.M.P.No.127 of 2019 in S.C.No.133 of 2019 on the file of the learned II Additional Subordinate Judge, Villupuram (FAC) dated 24.10.2019 and set aside the same.

For Petitioner : Mr.M.Devaraj

For Respondent : Mr.K.Madhan

Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 24.10.2019 in C.M.P.No.127 of 2019 in S.C.No.133 of 2019 on the file of the learned II Additional Subordinate Judge, Villupuram (FAC).

2. The case was registered against the petitioner for the offence under Sections 286, 336, 304(ii) of IPC r/w Section 8 & 9(B)(3)(C) r/w 5 of Explosive Substance Act. After completion of investigation, the respondent police filed a charge sheet before the learned Judicial Magistrate No.I, Villupuram. After committal, the Sessions Judge taken cognizance of the case in S.C.No.133 of 2019. When the matter is pending before the Sessions Court, the petitioner filed a discharge petition under Section 227 of Cr.P.C and the same was dismissed on 24.10.2019. Challenging the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner would submit that there is no materials to implicate the petitioner in this case. Originally, the case was registered against the petitioner for the offence under Sections 286, 336, 304(ii) of IPC r/w Section 8 and 9 (B)(3)(c) of Explosive Act r/w Section 5 of Explosive Substances Act. On completion of investigation, charge sheet was filed for the offence under

Section 286, 338, 304(ii) of IPC r/w Section 8 and 9 (b) of Explosive Substance Act. Subsequently, by deleting Sections 338 and 304(ii) of IPC, the investigating officer filed an additional charge sheet for the offence under Section 286 of IPC and Section 8 and 9 (b) of Explosive Substance Act, which is a lesser punishment. He would further submit that no materials would show that the petitioner has involved in any of the offence as mentioned in the charge sheet and without any materials he need not undergo ordeal of trial. Therefore, the petitioner filed the petition under Section 227 of Cr.P.C before the learned II Additional Subordinate Judge, Villupuram and the same was dismissed.

4. In support of his contention the learned counsel for the petitioner relied upon the judgments of this Court in Narender Bir Singh Vs. State reported in MANU/TN/3751/2010; Sasikumari and Ors. Vs. The State, Inspector of Police reported in MANU/TN/7612/2018 ; and Sekar and others Vs.State in Crl.A.No.687 of 2016.

5.The learned Government Advocate (Crl.Side) would submit that the petitioner, who engaged the untrained labourers in the explosive substance work is liable for the said offence. Further, whether the petitioner has followed the safety measures or not can be decided in the trial, but, not at this stage.

6.At this juncture, the learned counsel for the petitioner would submit that in the licence, no prescribed qualification was mentioned for the employees, those who were engaged in the explosive substances work. Therefore, the petitioner has not violated any rules and without any materials no charges can be framed and hence, the petitioner cannot undergo with the trial.

7.Heard both sides and perused the materials available on record.

8.Admittedly, the petitioner is the owner of the shop and the accident had taken place in the said premises and five workers died. It is a settled proposition of law that while deciding the petition under Section 227 Cr.P.C, the Court need not conduct roving enquiry upon the materials placed before it. If the judge consider that there is sufficient ground for proceeding against the accused and if the judge is of the opinion that there is a ground for presuming that the accused has committed an offence he may frame a charge against the accused. The contention of the learned counsel for the petitioner is that in the licence, there is no specific qualification mentioned for the workers, but, whereas, the accident had taken place in the premises of the petitioner and five persons died in the said accident. Further, whether the petitioner had followed the safety measures or not can be decided only after the trial, but, not at this stage. The

defence taken by the accused need not be considered at this stage. Further, this Court is of the view that the decisions cited supra are not applicable to the case on hand.

9. Under these circumstances, this Court does not find any perversity or infirmity in the order passed by the learned Sessions Judge. However, the petitioner is at liberty to take all of his defence during trial. Accordingly, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The II Additional Subordinate Judge,
Villupuram (FAC).

2.The Station House Officer,
Villupuram Taluk Police Station
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.M.Devaraj , Advocate SR.No. 2401

Cr1.R.C.No.1292 of 2019
and
Cr1.MP.No.17515 of 2019

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A.SK(03.03.2021)

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