



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.406 of 2022
and
Crl.MP.Nos.4141 & 4142 of 2022

Sureshkumar

... Petitioner

Versus

State Rep.by Inspector of Police,
Kandili Police Station,
Vellore District.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order dated 21.02.2022 in Crl.M.P.No.1172 of 2021 in C.C.No.136/2020, passed by the Learned Judicial Magistrate, No.II, Tirupattur, Vellore District.

For Petitioner : Mr. E.Kannadasan

For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (crl.side)

O R D E R

The petitioner is the accused in C.C.No.136 of 2020 for the alleged offences under Sections 188, 294(b), 353, 506(ii) of IPC, r/w Section 6 and 24 of the Cigarette and Other Tobacco Products Act, 2003.

2.It is the case of the petitioner that he is an activist, who had filed Public Interest Litigation against the Revenue officials for not taking any action against the illegal sand theft, etc. So as to take vengeance against the petitioner, the revenue officials, broke open the closed shop and kept some tobacco items, which were planted in the shop, as if, he was keeping to sell the same. It is his further contention that the CCTV footage, which was produced by him to the respondent/police would conclusively establish these aspects. Ultimately, the Trial Court, without taking into account the same, had dismissed the discharge application.

3.Per contra, the learned Government Advocate (crl.side) appearing for the respondent would submit that the investigation



is completed and charge sheet has also been filed. The materials collected by the prosecution, prima facie shows the offences charged as has been committed by the petitioner. If CCTV footage alleged by the petitioner is a defence document, he has to produce the same only at the time of trial and it cannot be taken into account for the purpose of granting or refusing the discharge application, and it has to be decided only by taking the materials filed along with final report on its face value.

4.I have considered the rival submissions of the learned counsel on either side and perused the material records of this case.

5.Discharge is sought on the premise that the CD containing the CCTV footages will totally disprove the allegations of the prosecution. However, that has to be done in the manner known to law i.e. during trial, and the same has to be confronted by producing witnesses and by duly marking the CD containing the CCTV footages.

6.Therefore, I am of the view that claiming discharge on the basis of the said CD is not permissible and therefore, this criminal revision fails. It is open to the petitioner to produce the CD along with certificate under Section 65-B of the Indian Evidence Act, during the course of the trial, and if and when such certificate is filed, the same can be duly taken on file and the Trial Court can proceed in accordance with law.

7.With the said observation, the Criminal Revision is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

klt

To

1.The Learned Judicial Magistrate, No.II,
Tirupattur, Vellore District.



2.The Inspector of Police
Kandili Police Station,
Vellore District.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.34077

Cr1.R.C.No.406 of 2022

PM(CO)
SB(17/06/2022)