

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.772 OF 2022

&

CRL.M.P.NO.7891 OF 2022

T.Rajendran

... Petitioner/Accused No.1

.Vs.

The State Rep. by
The Inspector of Police,
CCB, EDF-II, Group - 4,
Egmore, Chennai.
Crime No.275 of 2015.

... Respondent/Complainant

PRAYER:-

Criminal Revision case under Section 397 r/w 401 Cr.P.C. to set aside and call for the records from the learned CCB & CBCID Metropolitan Magistrate, Egmore, Chennai - 8 in Crl.M.P.No.5037 of 2018 in C.C.no.4818 of 2018 dated 07.11.2019.

For Petitioner :: Mr.R.Ganesan

For Respondent :: Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

O R D E R

Aggrieved by the order dated 07.11.2019 passed in Crl.M.P.No.5037 of 2018 in C.C.No.4818 of 2018 by the learned CCB and CBCID Metropolitan Magistrate, Egmore, Chennai - 8, in and by which the application for discharge filed by the petitioner has been dismissed by the learned Trial Judge, the present revision has been filed.

2. The learned counsel appearing on behalf of the petitioner would submit that the Trial Judge did not apply his mind to the various grounds raised in the discharge petition and instead,

dismissed the petition primarily based on the orders passed by this Court in a quash petition. The observations made in the quash petition, per se, cannot be taken as conclusive and the discharge petition ought to have been decided on its own merits. The learned counsel would further submit that the primordial allegation in the entire charge sheet is that the petitioner had fixed a lower price for the chicken and for fixing such a lower price, he obtained commission from the dealers and customers and misappropriated the money. Further, it is his contention that the business had been automated by digitalization and the entire company ran on a software and digitalized fixing of prices and absolutely, there is no question of fixing a lower price by the petitioner and therefore, the Trial Court, without even considering this very basic fact, which is to be gone into even at the stage of discharge, given the nature of power of the Trial Court under Section 239 Cr.P.C., erroneously dismissed the discharge petition. The learned counsel would also submit that the case of the accused should be considered at this stage itself as per the mandate of the Constitution of India under Article 51-A of the Constitution of India.

3. Per contra, learned Government Advocate (Crl. Side) would submit that there are multiple allegations against this petitioner. He would submit that as regards the allegation of fixing of lower price for the chicken, it is for the petitioner to establish by way of defence in the Trial. Apart from the same, a perusal of the statements given by the listed witnesses, it is clear that the petitioner, being an employee of the company, had given a different account number to the dealers and taken the money payable by the dealers to the company in a separate account and has misappropriated the amount for his personal use. Therefore, he would submit that there are multiple allegations for which there are prima facie materials. Therefore, the petitioner cannot be discharged.

4. I have heard the rival submissions and gone through the materials on record.

5. As rightly stated by the learned Government Advocate (Criminal Side), even L.W.1, in his statement clearly states that while he requested payment from one dealer namely, Sri Aiyyanar Traders, Palladam, they had replied to him that they had deposited the amount into the account mentioned by Rajendran, the petitioner herein and gave the account number. On verification thereof, it was found that it was not the account operated by the Company and the petitioner had directed the money to be deposited in his personal account. In view of the said allegations, there are prima facie materials for framing of charges as against the petitioner.

6. However, the learned counsel for the petitioner would submit that not each and every allegation should be raised only at the time of trial, but certain prima facie aspects, can be looked into, including some of the documents produced by the accused, at the time of framing of charges itself and he would submit that ample opportunity should be given to the petitioner to make his submissions regarding the charges, even at the time of framing of charges.

7. In view of the above, this Criminal Revision Case is disposed of on the following terms:

(i) The order dated 07.11.2019 passed in CrI.M.P.No.5037 of 2018 in C.C. No. 4818 of 2018 by the learned CCB and CBCID Metropolitan Magistrate, Egmore, Chennai - 8 is confirmed;

(ii) However, it would be open to the petitioner to make his contention even about the prima facie material, including fixation of price, at the time of framing of charges itself and the same shall also be duly considered along with other allegations, on merits and in accordance with law, at the time of framing of charges;

(iii) Apart from the above, the petitioner is also at liberty to raise all the contentions that were raised in the discharge petition during the course of trial and the same shall also be duly considered in accordance with law, without in any way being influenced by the observations made by this Court while disposing of this revision.

(iv) Considering the fact that the calendar case is of the year 2019, the learned Magistrate is requested to dispose of the case as expeditiously as possible, preferably within a period of 8 months from the date of receipt of a copy of this order.

Consequently, Connected CrI.M.P. is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
CCB, EDF-II, Group - 4,
Egmore, Chennai.
2. The CCB CBCID Metropolitan
Magistrate, Egmore,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Mahendra Babu, Advocate, S.R.No.39200

CRL.R.C.NO.772 OF 2022

SVI(CO)
PBS/12/07/2022