

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.744 of 2022

V.Kanniappan

... Appellant

Versus

The State Represented by,
Deputy Commissioner of Police,
Washermenpet Range,
H 5 New Wahermenpet Police Station Campus,
Chennai -81.

... Respondent

Prayer : Criminal Revision Petition filed u/s. 397 read with 401 of Cr.P.C to call for the records in M.P.No.5489 of 2022 dated 29.04.2022 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai -1 and set aside the same.

For Appellant : Mr. J.Vaithyanathan
for Mr.R.C.Manoharan

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

JUDGMENT

This Criminal Revision is filed against the dismissal of M.P.No.5489 of 2022 dated 29.04.2022 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai -1, in and by which, the petitioner's application to refer his complaint dated 24.01.2020. The complaint for the offence under Sections 294(b) and 506(ii) of IPC was refused to be referred by the respondent police for investigation.

2. The trial Court took into consideration of the prima facie case and also the fact that such an application is filed by the petitioner for a complaint dated 24.01.2020, after a lapse of 2 years, it would be extremely difficult to undertake the investigation and hence considering the nature of the offence, refused to refer the complaint.

3. I heard the learned counsel for the petitioner and perused the materials available on record.

4. The learned counsel would submit that, such an approach by the trial Court is impermissible and the finding that, for the purpose of referring the case under Section 156 (3), it is only the averments in the complaint which has taken on face value is totally irrelevant.

5. I have considered the submissions made by the learned counsel for the petitioner and perused the materials placed on record of this case.

6. Even though, only the averments in the complaint have to be taken into account at the stage of referring, considering the nature of the offence ie., under Section 294(b) and 506(ii) of Indian Penal Code and on perusal of the trial Court order in total, I am of the view that no exception can be taken for the findings of the trial Court, especially when an application is made after a delay of 2 years.

7. In that view of the matter, revision is bound to fail and accordingly, this Criminal Revision Petition is dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sma

To

1. The XVI Metropolitan Magistrate, George Town,
Chennai -1,
2. The Deputy Commissioner of Police,
Washermenpet Range,
H 5 New Wahermenpet Police Station Campus,
Chennai -81.
3. The Public Prosecutor,
Madras High Court.

+1cc to Mr.R.C.Manoharan, Advocate, S.R.No.37006

Cr1.R.C.No.744 of 2022

SKM(CO)
CT/13/07/2022