



WEB COPY



CrI.R.C.No.1132 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 28.10.2022**

**CORAM:**

**THE HON'BLE Mr. JUSTICE P.VELMURUGAN**

**CrI.R.C.No.1132 of 2022**

**and**

**CrI.M.P.No.12646 of 2022**

Baby

... Petitioner

Vs.

The Inspector of Police,  
D3 Ice House Police Station,  
Chennai.

... Respondent

**Prayer:**

Criminal Revision Case filed under Section 397 & 401 Cr.P.C., to set aside the order passed in CrI.M.P.No.10104 of 2021 in S.C.No.95 of 2021 on the file of the XXII Additional District and Sessions Judge at Allikulam, City Civil Court, Chennai dated 15.07.2022.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.S.Sugendran  
Additional Public Prosecutor

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CrI.R.C.No.1132 of 2022

**ORDER**

The petitioner has been arrayed as A18 in S.C.No.95 of 2021. During the pendency of the Sessions Case, the petitioner has filed the petition under section 227 Cr.P.C., to discharge her from the case. Learned Additional District and Sessions Judge, on hearing the arguments advanced on both sides, dismissed the petition. Challenging the same, now the petitioner/A18 before this Court.

2. Learned counsel for the petitioner would submit that neither prima facie materials nor incriminating materials are found as against the petitioner in this case. Even in the counter filed by the prosecution, they have referred the evidences of L.W.22 and L.W.23. On a reading of the statement recorded from L.Ws.22 and 23 prima facie does not show any allegations as against the petitioner. The learned Sessions Judge failed to read the entire statement of L.W.22 and 23, simply dismissed the petition.



Crl.R.C.No.1132 of 2022

3. When the matter came up for hearing on 26.10.2022 after hearing the arguments of the learned counsel for the petitioner, this Court directed the Additional Public Prosecutor to submit a material except the evidence of L.Ws.22 and 23, in connection with the petitioner. Today the learned Additional Public Prosecutor, submitted confession statement said to have been given by this petitioner/A18, A3 and A1. On a reading of the statement, it is found that the petitioner admitted the commission of offence.

4. Learned counsel for the petitioner would further submit that the petitioner cannot herself give any confession statement. Even assuming that she has given the confession statement and based on the confession statement, the petitioner cannot be implicated. Even statement said to have been given by the petitioner is an inadmissible evidence. It has also not been satisfied the ingredients of Section 27 of the Indian Evidence Act. Based on the inadmissible evidence, the accused cannot be convicted.



Crl.R.C.No.1132 of 2022

5. Admittedly the petitioner arrayed as A18. It is a well settled proposition of law, at the time of framing charge, if the Court satisfied that either prima facie materials or incriminating materials are available, the Court can frame charge and the Court need not look into as to whether the materials are sufficient for convicting the accused or not. Therefore, under these circumstances, whether the statement referred to by the prosecution in the final report is admissible or not, it can be decided only after trial and whether materials are sufficient for convicting the accused or not cannot be decided at this stage. Hence, the Revision is liable to be dismissed. Accordingly, the Criminal Revision Petition is dismissed. However, the petitioner at liberty to take her defence during trial. Consequently, connected miscellaneous petition is closed.

**28.10.2022**

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Index:yes/No  
Internet:yes/No



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**To**

1. The XXII Additional District and Sessions Judge at Allikulam,  
City Civil Court,  
Chennai.
2. The Inspector of Police,  
D3 Ice House Police Station,  
Chennai.
3. The Public Prosecutor,  
High Court, Chennai.



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Crl.R.C.No.1132 of 2022

**P.VELMURUGAN, J.**

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