



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C. (MD)No.214 of 2020

T.W.Sathish

... Petitioner/Petitioner/
Accused No.1

Vs.

State Represented by
The Sub Inspector of Police,
Kaliyakkavilai Police Station,
Kaliyakkavilai,
Kanyakumari District.
(Crime No.333 of 2001)

...Respondent/Respondent/ Complainant

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for the records and set aside the order dated 22.01.2020 passed in Cr.M.P No.3466 of 2019 in C.C No.109 of 2018 on the file of the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District.

For Petitioner : Mr.K.Veilmuthu

For R1 : Mr.M.Aasha
Government Advocate (Criminal Side)

ORDER

The petition has been filed to set aside the order passed by the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District in Cr.M.P.No.3466 of 2019 in C.C.No.109 of 2018, dated 22.01.2020, thereby dismissed the petition seeking for discharge of the petitioner from the charge under Section 419 of IPC.

2.The learned Counsel appearing for the petitioner would submit that the first accused has surrendered before the learned Judicial Magistrate No.I, Kulithurai on 29.03.2021 in the place of the petitioner and the accused Nos.3 and 4 stood before the Court below as sureties. Therefore, the petitioner had no role to play and the confession statement from the first accused does not reflect anything as against the petitioner. Even, according to the said confession, the paternal uncle of the petitioner, who arranged the first accused to appear on behalf of the petitioner herein. Therefore, there are absolutely no materials as against the petitioner. The confession statement recorded by the Court below did not reflect anything as against the petitioner. He was working as a coach in the private sports academy in Delhi during the relevant period and the confession statement subsequently recorded



by the police, is not acceptable.

3. On perusal of records, it is revealed that the case was registered in the year 2001. Based on the complaint lodged by the learned Judicial Magistrate No.I, Kulithurai alleging that on 29.03.2001 in the surrender application in C.M.P.No.2625 of 2001 filed based the bail order order passed in C.M.P.No.910 of 2001 in PRC No.4 of 1996 on the file of the District and Sessions Court, the first accused, had surrendered before the Court as a proxy which was seriously taken note of and a complaint was lodged before the respondent. On receipt of the same, the FIR had been registered in Crime No.286 of 2001. After completion of investigation, the final report had been filed and the same had been taken cognizance in C.C.No.136 of 2001 as against four accused persons. Later, it was split up in C.C.No.441 of 2007 as against the petitioner and first accused, since the other two accused had been given benefit of provisions of the Probation of Offenders Act. Later, the first accused had also admitted his guilty and he was convicted and the case against the petitioner herein has been split up in C.C.No.109 of 2018. While pending the trial, the petitioner filed a petition for discharge.

4. It is seen that the petitioner had not surrendered before the Court below and in his place, the first accused had surrendered as proxy and therefore, it raises serious suspicion in regard to the petitioner's connection in this case. When the first accused himself admitted his guilty and paid fine, there is no question of discharging the petitioner from the charges.

5. Therefore, the Court below had rightly dismissed the petition for discharge and this Court finds no infirmity or illegality in the order passed by the Court below. The criminal revision case is dismissed. Further, the crime is of the year 2001 and it is pending for the past 21 years because of the petitioner herein. Even, after splitting up the case as against the petitioner, immediately he filed a discharge petition and dragged the matter for the past four years. Considering the above, the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of the order.

Sd/-

Assistant Registrar (CS-I)

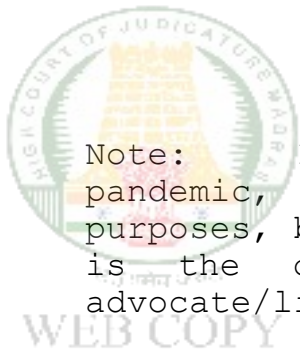
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/ /2022

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate No.I,
Padmanabapuram, Kanyakumari District.

2.The Sub Inspector of Police,
Kaliyakkavilai Police Station,
Kaliyakkavilai,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section officer, Criminal Section,
Madurai Bench Of Madras High Court, Madurai. (2 COPIES)

+1 CC to M/s.K.VEILMUTHU, Advocate (SR-11332[F] dated 10/03/2022)

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_RD(25.03.2022) 3P 7C