



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.546 of 2021

and

Crl.M.P(MD)Nos.6115 & 6116 of 2021

WEB COPY

Durai. Padmanaban

... Petitioner/Accused No.6

Vs.

The State through,
The Inspector of Police,
Royappanpatti Police Station,
Theni District.
Crime No.66 of 2009.

... Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 and Section 401 of the Code of Criminal Procedure, to call for the records of the order made in Cr.M.P.No.42 of 2014 in S.C.No.59 of 2012 on the file of the learned Assistant Sessions Judge, Uthamapalayam, dated 23.03.2020 and set aside the same and consequently discharge the petitioner from the above case.

For Petitioner : Mr.A.Rajaram

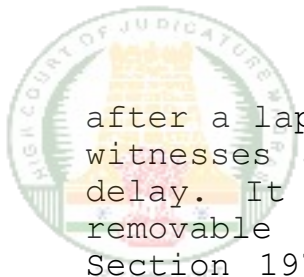
For Respondent : Ms.M.Aasha
Government Advocate (Crl. Side)

ORDER

This revision has been filed as against the order passed in Cr.M.P.No.42 of 2014 in S.C.No.59 of 2012 dated 23.03.2020 on the file of the learned Assistant Sessions Judge, Uthamapalayam, thereby dismissing the petition to discharge the petitioner from the charges.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

3.On a perusal of the records revealed that the petitioner is arraigned as sixth accused and he was charged for the offences under Sections 147, 148, 149, 341, 307 and 109 of I.P.C. While pending of framing charges, the petitioner filed a petition to discharge him from the charges on the ground that the respondent failed to get any permission from the Government to prosecute the petitioner, since the petitioner is a Government servant. Further, the petitioner had taken another ground that the date of occurrence was 27.04.2009 and



after a lapse of 10 months, 161 statement has been recorded from the witnesses and there is no explanation by the prosecution for the delay. It is relevant to point out that the petitioner is not removable from the Government. Therefore, the protection under Section 197 of Cr.P.C is not applicable to the petitioner herein. Further, there is no evidence to show that the offence was committed at the time of discharging his duty. Therefore, the Court below rightly dismissed the petition for discharge and this Court finds no infirmity or illegality in the order passed by the Court below. That apart, already charges have now been framed as against all the accused and issued summons to the witnesses. Accordingly, this Criminal Revision Case is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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 Assistant Sessions Judge,
Uthamapalayam.
- 2.The Inspector of Police,
Royappanpatti Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.RAJARAM, Advocate (SR-11391[F] dated 11/03/2022)

Crl.R.C(MD)No.546 of 2021
10.03.2022

MGJ(25.03.2022) 2P 7C