IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.11.2022
PRONOUNCED ON : 21.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.476 of 2022
and
CRL OP.No.26876 of 2022
and
CRL MP(MD)Nos.16511 and 16513 of 2022

Crl.R.C.No.476 of 2022

T.r.Elangovan ... Petitioner / Accused

Vs.

The Inspector of Police,
Vigilance and Anti-Corruption,
Thanjavur. ... Respondent / Complainant

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for records in S.Pl.C.C.C.No.01 of 2015 and set aside the order passed in Crl.M.P.471 of 2021, dated 01.03.2022, on the file of the Chief Judicial Magistrate, at Tiruvarur and direct the respondents to abate the deceased Rajappa from all the allegations exclude his properties from charge sheet.

For Petitioner : Mr.N.R.Elango
Senior Counsel
For Mr.C.Deepakkumar

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

CRL OP.No.26876 of 2022

1.T.r.Elangovan
2.G.Poorani ... Petitioners / A1 & A2

Vs.

The Inspector of Police,
Vigilance and Anti-Corruption,
Thanjavur. ... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in S.Pl.C.C.C.No.01 of 2015, on the file of the Chief Judicial Magistrate, at Tiruvarur and quash the same.

For Petitioners : Mr.N.R.Elango
Senior Counsel
For Mr.C.Deepakkumar

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

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COMMON ORDER

The Criminal Revision Case has been filed to call for records in S.Pl.C.C.No.01 of 2015 and set aside the order passed in Crl.M.P.471 of 2021, dated 01.03.2022, on the file of the Chief Judicial Magistrate, at Tiruvarur and direct the respondents to abate the deceased Rajappa from all the allegations exclude his properties from charge sheet.

2.The Criminal Original Petition has been filed to call for records in S.Pl.C.C.No.01 of 2015, on the file of the Chief Judicial Magistrate, at Tiruvarur and quash the same.

3.The case of the prosecution is as follows:-

(i) There are totally three accused in this case. The Petitioner in Crl.R.C.No.476 of 2022 and the 1st petitioner in Crl.O.P.No.26876 of 2022 is A1. The 2nd petitioner in Crl.O.P.No.26876 of 2022 is A2, who is the wife of A1. A3 is the father of A1, who died on 29.09.2020. They were charged for the offences under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 r/w Section 109 of IPC.

(ii) A1 / llangovan served as Selection Grade-l Junior Assistant at office of the Superintending Engineer, TNEB, Electricity Distribution Circle (Central) Chennai and on deputation, he worked as Personal Assistant to former Minister Arcot Veerasamy, for more than 10 years. He resigned from service on 17.03.2011 and he contested the Assembly Election in Nannilam Assembly Constituency in the year 2011, as candidate of DMK party and he was defeated.

(iii) He purchased number house sites and lands in the name of his wife/(A2) at Cuddalore, Karur and Thiruvarur Districts and he purchased number of Buses, Tractors in the name of his father/(A-3) at Thiruvarur District between 2007 and 2011 and he constructed “Sri Saradha Mahal Marriage Hall” in the name of (A-3) at Thiruvidaimaruthur, Thanjavur District, between 2010 and 2012. Hence, the check period was fixed between 2007 and 2011 that is between 01.01.2007 to 17.03.2011.

(iv) At the beginning of the check period as on 01 01.2007, the value of assets stood in the names of A1 to A3 is Rs.5,42,961.60, but the value of the assets stood in their names at the end of the check period i.e., on 17.03.2011 is Rs 3,24,97,784.66. The Income of A1 to A3 during said check period is arrived at as Rs.1,62,65,230.99. The expenditure incurred by the accused and their family members arrived at as Rs.72,25,750.50. The value of the assets acquired by A1 to A3 is Rs 3,19,54,823.06, i.e, assets at the end of the check period (Minus) assets at the beginning of the check period. Likely savings by A1 to A3 is Rs 90,39,480.49 i.e, income minus expenditure.

(v) Hence, the value of the disproportionate assets in the name of both A1 & A2 is Rs 2,29,15,342.57/-, for which both the accused unable to explain satisfactorily during the course of investigation. Therefore, A1, being public servant, during the check period between 01.01.2007 and 17 03.2011, committed the offence of criminal mis- conduct, by acquiring and possessing properties in his name, in the name of his wife and in the name of his father A3, which are disproportionate to his known source of income to the of Rs. 2,29,15,343/-. thereby, A1 committed an offence punishable under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988; A2 and A3 committed the offence of abetment, punishable under section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 r/w 109 IPC., since they were facilitated A1 to acquire number of immovable properties in their name during the said check period.

(vi) On the allegation that accused was found to have acquired and in possession of the properties and pecuniary resource disproportionate to his known source of his income, a preliminary enquiry was conducted, based on the preliminary enquiry, a regular case in Nagapattinam V&AC., in Crime No.03 of 2012, for the offence under Section 13(1)(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 against A1 was registered, investigated and final report filed before the learned Chief Judicial Magistrate, Tiruvarur, which was taken on file in S.P.L.C.C.No.1 of 2015.

4. At the time of framing charges, A3/Rajappa died on 29.09.2020, who is the father of A1 and father-in-law of A2. A1 filed Revision before this Court in Crl.R.c.No.603 of 2021, to abate the

deceased/A3 from all his allegations and to exclude his properties from the charge sheet in Special C.C.No.1 of 2015 and to set aside the order dated 21.09.2021 passed by the learned Chief Judicial Magistrate at Thiruvarur, and directing the respondents to alter the charge sheet. While disposing the Revision, this Court held that the power to alter the charge is exclusively vest with the Court and no party has any right seek for alteration of charges, as a matter of right. If at all the petitioner has any grievance with regard to the assets stand in the name of A3, it is always open to him to file appropriate application before the trial Court, seeking to exclude those properties. Thereafter, the petitioner filed an application before the trial Court under Section 239 of Cr.P.C., in Crl.M.P.No.471 of 2021, to abate the deceased/A3 from all his allegations and to exclude his properties from charge sheet and to direct the respondents to alter the charge sheet. The same was dismissed by the trial Court on 01.03.2022. Challenging the order of dismissal, the petitioner filed the present Revision for the aforesaid relief. Further, A1 and A2 filed Criminal Original Petition in CRL O.P.No.26876 of 2022 to quash the proceedings in S.P.L.C.C.No.1 of 2015, pending on the file of the Chief Judicial Magistrate, at Tiruvarur.

5. Mr.N.R.Elango, the learned Senior Counsel appearing for

the petitioners would submit that the father of the petitioner/A3 died on 29.09.2020. He was elected as President of Sarguneswarapuram Village from 2007 to 2012 and A3's deceased wife and petitioner's mother Kamala was also elected as president of Sargunesaran Village between the year 2002 and 2007. The petitioner's father(A3) was a retired Senior Officer of Simpson (Amalgamations), worked there nearly for 40 years. He and his wife were holding Panchayat President posts for more than a decade in their own Panchayat with their own earning capacity and the properties, which A3 acquired, should be answered by deceased and the petitioner is no way connected with the properties and liabilities. Therefore, it cannot be stated that the properties standing in the name of the deceased were purchased by the petitioner, which are included in the known source of income of the petitioner on the ground that the petitioner acquired those assets in his father's name. It is the further contention of the learned Senior Counsel that, if A3 alive, he would have produced evidence to the effect that he had the means to purchase those properties standing in his name and for the death of A3 that opportunity is lost to the petitioner to rebut the presumption raised in favour of the prosecution. The person, in whose name the properties stand is now dead, the charge against that person is also abated, there is no evidence either oral or documentary to prove that A3 is the benami of the petitioner/A1, the petitioners cannot be penalized. Without presence of the A3, the other accused will not be in a position to answer the properties standing in the name of A3 .

6. The learned Senior Counsel further submitted that on bare perusal of F.I.R, it is clear that the F.I.R. was registered for the offences committed within the Jurisdiction of Tiruvarur District. The officer, who does not have jurisdiction to conduct the investigation in Tiruvarur District, has illegally registered the F.I.R. in the above case. No documents were produced in the court to show that Mr. R. Rangarajan, D.S.P., V & AC, Thanjavur is authorized to register F.I.R. for offences committed within the jurisdiction/ range of Tinivanur District. Further after registration of F.I.R, an illegal order under second Proviso of Section 17 of Prevention of Corruption Act, was passed by the officer. As per second proviso of Section 17 of Prevention of Corruption Act, there shall not be any investigation under Section 13(1) (e) of the Act, without an order being passed by a Police Officer not below the rank of Superintendent of Police. In the above case, even prior to the order being passed under second proviso of Section 17 of the Act, FIR. in Cr.No.3/2012, dated 14.09.2012, was illegally registered by The Deputy Superintendent of Police, V & AC, Thanjavur. Therefore,the entire investigation in the above case is without jurisdiction and

non-est in law. In the final report, the Investigating Officer intentionally failed to consider the explanations given by the petitioners. If the explanation given by the petitioners along with its documents taken for consideration, no alleged offence is made out against the petitioners. Without supply of explanation and its annexed documents to the petitioners, they will not be in a position to demonstrate that the prosecution case is not maintainable prior to framing of charges, which resulted in miscarriage of justice. Hence, the learned counsel seeks indulgence of this Court to allow both the Criminal Revision and the Criminal Original Petition.

7. The learned Senior Counsel, in support of his contentions, relied or the Judgment of the Apex Court in ***U.Subhadramma Vs. State of Andhra Pradesh*** reported in (2016) 7 SCC 797, wherein in paragraph 9, it has been held as follows:

> "9. As far as the circumstances of this case are concerned, we find that there has been a gross mis-carriage of justice at several steps. In the first place, the finding of the trial court that Ramachandraiah was alone responsible for the offences is completely vitiated as null and void since Ramachandraiah had admittedly died on the date this finding was rendered. It is too well settled that a

> prosecution cannot continue against a dead person. A fortiori a criminal court cannot continue proceedings against a dead person and find him guilty. Such proceedings and the findings are contrary to the very foundation of criminal jurisprudence. In such a case the accused does not exist and cannot be convicted. Consequently, the learned District Judge committed a gross error of law in acting upon such a finding and treating Ramachandraiah as guilty of such offences while making the order of attachment and while confirming the said order of attachment of properties. "

8. The learned Senior Counsel, relying on the Judgment of the Apex Court in ***State of Maharashtra Vs Wasudeo Ramachandra Kaidalwar*** reported in ***(1981) 3 SCC 199)***, would contend that the extent and nature of burden of proof resting upon the public servant to be found in possession of disproportionate assets under Section 5(1)(e) (corresponding to Section 13(1)(e) of the 1988 Act) cannot be higher than the test laid by the court in ***Jhingan's Case (AIR-1966-SC-1762)*** i.e. to establish the case by the preponderance of probability. The accused is not bound to prove his innocence beyond all reasonable doubt. All that the accused needs to do is to bring out preponderance of probability.

9. Mr.S.Udayakumar, Government Advocate (Crl. Side), appearing for the respondent in both the cases would submit that the accused found to have acquired and possession of properties disproportionate to known source of income, a preliminary enquiry was conducted, based on the preliminary enquiry, a regular case in Nagapattinam V & AC Cr.No 03/2012, u/s 13 (2) r/w 13(1) (e) of Prevention of Corruption Act, 1988 was registered against the accused. Al served as Selection Grade-1 Junior Assistant at the office of the Superintending Engineer, TNEB, Electricity Distribution Circle (Central) Chennal and on deputation, he worked as Personal Assistant to former Minister for Electricity Arcot Veerasamy for more than 10 years. He resigned from service on 17.03.2011 and he contested the Assembly Election in Nannilam Constituency in the year 2011, as a candidate of DMK party, and he was defeated. He purchased a number of house sites and lands in the name of his wife/(A2) at Cuddalore, Karur and Thiruvarur Districts and purchased buses, tractors in the name of his father/(A3) between 2007 and 2011; He constructed 'Sri SaradhaMahal Marriage Hall' in the name of his father/(A3) at Thiruvidaimaruthur, Thanjavur District between 2010 and 2012. Hence, the check period was fixed between 2007 and 2011 that is between 01.01.2007 to 17.03.2011. On investigation, it is came to

know that Al having disproportionate assets to the extent of Rs. 2,29,15,343/- with abetment of A2 & A3. Hence charge sheet filed against the accused A1 to A3 U/s 13(2) r/w 1311)e) of Prevention of Corruption Act, 1988 r/w Section 109 IPC. It was taken on file by the learned Chief Judicial Magistrate and Special Judge, Thiruvarur, in Spl.CC.No 1/2015 .

10. Adding further, the learned Government Advocate (crl.side) would submit that the prosecution has not alleged all the properties standing in the name of the A3 deceased and only taken into account the the properties, which were purchased during the check period and not before that. During the investigation, opportunity to rebut the presumption raised in favour of the prosecution regarding the assets in the name of A3 was given in the form of Final Opportunity Notice (FON) to A3/deceased and the reply also was received for the same and it was also listed as document Nos.87 to 91 in the Final Report. During the check period, A3/deceased was a retired Senior Assistant of Simson Company at Madras and his Family Pension was Rs.404/- per month and his LIC pension was Rs.1,417/- per Quarter. This income and other incomes which were specified in the FON by the A3, as Agricultural Income and from other sources, all were considered. The investigation officer has no *locus standi* to alter the charges and

to exclude the properties standing in the name of the deceased A3, which has to be decided at time of trial. Till date, charges against A1 and A2 not framed by the trial Court, as the accused not cooperating with the court proceedings.

11. It is further contended that the disproportionate asset case is entirely different from other criminal cases and the main charge as against Al, and A3 was alleged in the charge sheet of the case for the offence under Section 109 IPC. In the disproportionate asset case, the burden of proving the case is the duty of the prosecution side and it will be decided during the course of trial. Now the case is pending in trial for framing charges against A1 and A2. The explanation given by A3 for the Final Opportunity Notice (FON) were listed as document No.87 to 91, in the Final Report. The explanation given by the A3 and other accused were legally considered by the Investigation Officer before laying the charge sheet. The learned Government Advocate (crl.side), relying on the Judgment of the Hon'ble Apex Court in ***Asim Shariff Vs. National Investigation Agency*** reported in ***(2019) 7 Supreme Court Cases 148*** and would contend that" the Judge while considering the question of framing the charges under Section 227 CrPC has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the

accused has been made out. The test to determine prima facie case would depend upon the facts of each case." Further, the learned Government Advocated invited the attention of this Court to the Judgment of the Apex Court in ***State through CBI, New Delhi Vs. Jitender Kumar Singh,*** reported in ***(AIR 2014 SCC 1169)*** wherein in paragraphs 41 and 42, it has been held as follows:-

> 41. ..... Learned Special Judge had, on 25.3.2003, framed the charges against the accused persons under Section 120B read Sections with 467, 471 and 420 IPC and also under Sections 13(1)(d) and 13(2) of the PC Act and substantive offences under Sections 420, 467 and 471 IPC and also substantive offences under Sections 13(1)(d) and 13(2) of the PC Act against the public servants. Therefore, charges have been framed against the public servants as well as non-public servants after hearing the prosecution and defence counsel, by the special Judge on 25.3.2003 in respect of PC offences as well as non-PC offences. As already indicated, under sub-section (3) of Section 4, when trying any case, a Special Judge may also try any offence other than the offence specified in Section 3 and be charged in the same trial. The Special Judge, in the instant case, has framed charges against the public servant as

well as against the non-public servant for offences punishable under Section 3(1) of PC Act as well as for the offences punishable under Section 120B read with Sections 467, 471 and 420 IPC and, therefore, the existence of jurisdictional fact that is “trying a case” under the PC Act has been satisfied.

42. The Special Judge after framing the charge for PC and non-PC offences posted the case for examination of prosecution witnesses, thereafter the sole public servant died on 2.6.2003. Before that, the Special Judge, in the instant case, has also exercised his powers under sub-section (3) of Section 4 of the PC Act and hence cannot be divested with the jurisdiction to proceed against the non-public servant, even if the sole public servant dies after framing of the charges. On death, the charge against the public servant alone abates and since the special Judge has already exercised his jurisdiction under sub-section (3) of Section 4 of the PC Act, that jurisdiction cannot be divested due to the death of the sole public servant.”

12. This Court considered the rival submissions and perused the materials available on record.

13. It is not in dispute, that there are totally three accused in this case. The Petitioner in Crl.R.C.No.476 of 2022 and the 1st petitioner in Crl.O.P.No.26876 of 2022 are one and the same and arrayed as A1; The 2nd petitioner in Crl.O.P.No.26876 of 2022 arrayed as A2, who is the wife of A1; A3 is the father of A1 and father-in-law of A2, who died on 29.09.2020. A1 served as Selection Grade-l Junior Assistant at office of the Superintending Engineer, TNEB, Electricity Distribution Circle (Central) Chennai and on deputation, he worked as Personal Assistant to former Minister Arcot Veerasamy, for more than 10 years. He resigned from service on 17.03.2011. A1 purchased number movable and immovable properties in the name of his wife/(A2) and his father/(A-3) between 2010 and 2012. Hence, the check period was fixed between 01.01.2007 to 17.03.2011.

14. According to the prosecution, at the beginning of the check period, as on 01 01.2007, the value of assets stood in the names of A1 to A3 is Rs.5,42,961.60, but the value of the assets stood in their names at the end of the check period i.e., on 17.03.2011 is Rs. 3,24,97,784.66. The Income of A1 to A3 during said check period is arrived at as Rs.1,62,65,230.99. The expenditure incurred by the accused arrived at as Rs.72,25,750.50. The value of the assets acquired by A1 to A3 is Rs 3,19,54,823.06.

The value of the disproportionate assets in the name of both A1 & A2 is Rs 2,29,15,342.57/-, for which, both the accused unable to explain satisfactorily during the course of investigation. Therefore, A1, being public servant, during the check period between 01.01.2007 and 17 03.2011, committed the offence of criminal mis-conduct, by acquiring and possessing properties in his name, in the name of his wife and in the name of his father A3, which are disproportionate to his known source of income, thereby, A1 committed an offence punishable under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988; A2 and A3 committed the offence of abetment, punishable under Section 13(2) r/w 13(1)(e) of Prevention of Corruption Act, 1988 r/w 109 IPC.

15. As regard the contention of the petitioner that a person, in whose name the properties stand is now dead, the charge against that person is also abated, there is no evidence either oral or documentary to prove that A3 is the benami of A1, the petitioners cannot be penalized, as the petitioner is no way connected with the properties and liabilities, which were obtained by A3 is concerned, on perusal of the records it is seen that the prosecution to rebut the presumption raised, given in the form of Final Opportunity Notice to A3, reply was received for the same and it was listed as Document

Nos.87 to 91 in the Final Report. The alleged properties were purchased during the check period and not before that.

16. As regards the contention that the Investigating Officer intentionally failed to consider the explanations given by accused and if the explanation taken into consideration, no offence is made out against the accused, the investigation officer has not produced the explanation given by A3 and suppressed the same is concerned, as rightly pointed out by the learned Government Advocate (crl.side), the explanation given by A3 for FON were listed as Document Nos.87 to 91 in the final report, and it was not suppressed, in fact, it was very well considered by the Investigation Officer before laying the charge sheet.

17. At the stage of framing charge, the Court has to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged and it is not expected to go deep into the probative value of the materials on record. The revisional power cannot be exercised in a casual or mechanical manner. It can only be exercised to correct manifest error of law or procedure which would occasion injustice, if it is not corrected. The revisional power cannot be equated with appellate power. A revisional court cannot undertake meticulous examination of the material on record

as it is undertaken by the trial court or the appellate court. This power can only be exercised, if there is any legal bar to the continuance of the proceedings or if the facts as stated in the charge-sheet are taken to be true on their face value and accepted in their entirety do not constitute the offence for which the accused has been charged. This would not be the stage for weighing the pros and cons of all the implications of the materials, nor for sifting the materials placed by the prosecution. The exercise at this stage is to be confined to consider the police report and the documents to decide whether the allegations against the accused can be said to be "groundless".

18. The Court can only consider the report forwarded under Section 173 Cr.P.C., and the documents sent therein. The veracity of documents and statement of witnesses cannot be gone into at this stage. The Court is bound to look into the materials produced by the prosecution during investigation and filed before the Court and the Court is not bound to consider the probable defence of the accused to quash the charge, at this stage. Further, the properties of A3 cannot be discharged or altered at the time of framing charge, when charge sheet filed under Section 13(1)(e) of Prevention of Corruption Act r/w.109 of IPC. The Inspector of Police, Vigilance and Anti-Corruption, examined more than 75 witnesses and

forwarded 161 statements of witnesses and so many numbers of documents, including reply given by A3 before the Court under Section 173 Cr.P.C. This Court has not power to consider any other document, which does not form part of the record. The only right the accused has at this stage is being heard and nothing beyond that.

19.The Primary contention of the learned Senior Counsel is that A3 is no more hence the properties/assets standing in the name of A3 to be deleted. Since A3 is not there to give explanation, this cannot be countenanced. It is well settled that, it is for the prosecution to prove the disproportionate properties held by A3 on behalf of A1 / Public Servant with evidence and materials. On such proof, the prime accused A1 is expected to dislodge the same by preponderance of probability in defence. These factors to be decided only during trial. On a demurrer if the contention of petitioner is to be accepted, it would lead to traversity of Justice. Further, in this case the petitioner/accused were unable to produce any materials of sterile quality for consideration.

20. The Apex Court in the case of ***Deputy Superintendent of Police Vs. R.Soundirarasu and Another*** reported in ***(2022 SCC online SC 1150)*** had dealt in detail referring to various Judgments

of the Apex Court with regard to consideration and scope of disproportionate assets cases at the stage of charge framing. In the said Judgment, it has been held that the phrase the burden of proof is clearly used in the secondary sense namely, the duty of introducing evidence. The nature and extent of the burden caused on the accused is well settled. The accused is not bound to prove his innocence beyond all reasonable doubt. All that he need do is to bring out a preponderance of probability.

21. The primary consideration at the stage of framing of charge is the test of existence of a *prima face* case, and at that stage, the probative of materials on record is not to be gone into. Further it is held that at the stage of charge framing, the Court has to form an presumptive opinion as to the existence of factual ingredients constituting the offence alleged and it is not expected to go deep into the probative value of the materials on record. It had also held that the Court at that stage, cannot speculate into the truthfulness or falsity of allegations and contradictions and consistencies in the statement of witnesses cannot be looked into. Further, in paragraph Nos. 69 and 70, it has been held as follows:-

> "69. The real test for determining whether the charge should be considered groundless Under

Section 239 of the Code of Criminal Procedure is that whether the materials are such that even if unrebutted make out no case whatsoever, the Accused should be discharged Under Section 239 of the Code of Criminal Procedure. The trial court will have to consider, whether the materials relied upon by the prosecution against the applicant herein for the purpose of framing of the charge, if unrebutted, make out any case at all.

70. The provisions of discharge Under Section 239 of the Code of Criminal Procedure fell for consideration of this Court in ***K. Ramakrishna and Ors. v. State of Bihar and Anr. (2000) 8 SCC 547***, and it was held that the questions regarding the sufficiency or reliability of the evidence to proceed further are not required to be considered by the trial court Under Section 239 and the High Court Under Section 482. It was observed as follows:

> "4. The trial court Under Section 239 and the High Court Under Section 482 of the Code of Criminal Procedure is not called upon to embark upon an inquiry as to whether evidence in question is reliable or not or evidence relied upon is sufficient to proceed further or not. However, if upon the admitted facts and the documents relied upon by the complainant or the prosecution and without weighing or sifting of evidence, no case is made out, the criminal proceedings instituted against the Accused are required to be dropped or quashed. As observed by this Court in Rajesh Bajaj v. State NCT of Delhi, 1999

> (3) SCC 259] the High Court or the Magistrate are also not supposed to adopt a strict hypertechnical approach to sieve the complaint through a colander of finest gauzes for testing the ingredients of offence with which the Accused is charge. Such an endeavour may be justified during trial but not during the initial stage."

22. It is sufficient to see that the accused might have committed offence on the basis of materials on record on the probative value, it can frame the charge. Further, the Apex Court held that when there are triable issues in the matter, the Court is not expected to go into the veracity of the rival versions. In this case, the points raised by the petitioners can be considered and decided only during trial and not in the revision or quash petitions.

23.In view of the forgoing reasons, the Criminal Revision Petition and the Criminal Original Petition are dismissed. The trial Court to give top priority to the case in Special C.C.No.1 of 2015 and proceed with the trial, without any further delay. Consequently, the connected miscellaneous petitions are also dismissed.

21.07.2023

Neutral Citation: Yes/No
Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No

MPK

To

1.The Chief Judicial Magistrate,
Tiruvarur.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Thanjavur.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

vv2/MPK

PRE-DELIVERY ORDERS MADE IN

Crl.R.C.No.476 of 2022
and
CRL OP.No.26876 of 2022

21.07.2023