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Crl.R.C.Nos.1061, 1118 and 1111 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.Nos.1061, 1118 and 1111 of 2024

A.Vivekanandan ... Petitioner in all the Crl.R.Cs.

Vs.

State rep. by

1.The Inspector of Police

J-5, Shastri Nagar Police Station,
Chennai.

Crime No.1966 of 2015 ... Respondent in all the Crl.R.Cs.

2.A.Chidambaram

3.Muthuraman ... Respondents in Crl.R.C.1061/2024

2.Rajagopalan

3.Shantha ... Respondents in Crl.R.C.1118/2024

2.Deivanai

... Respondent in Crl.R.C.1111/2024

Common Prayer:

Criminal Revision Cases filed under Sections 397 and 401 (1) of the Criminal Procedure Code, seeking to set aside the orders dated 07.03.2023, 07.03.2023 and 12.12.2022 respectively, passed in Crl.M.P.Nos.2685 of 2023, 2687 of 2023 and 1835 of 2016 respectively, in C.C.No.1114 of 2016 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai.



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Crl.R.C.Nos.1061, 1118 and 1111 of 2024

For Petitioner : Mr.K.Mayurapriyan

For Respondents : Mr.A.Gopinath
Government Advocate (Crl. Side)
for R1 in all the Crl.R.Cs.

Mr.R.Sagadevan
for R2 & R3 in Crl.R.C.1061/2024

Mr.Abudu Kumar
Senior Counsel
for Mr.M.Jagajeevan
for R2 & R3 in Crl.R.C.1118/2024
for R2 in Crl.R.C.1111/2024

COMMON ORDER

The criminal revision cases have been filed seeking to set aside the orders dated 07.03.2023, 07.03.2023 and 12.12.2022 respectively, passed in Crl.M.P.Nos.2685 of 2023, 2687 of 2023 and 1835 of 2016 respectively, in C.C.No.1114 of 2016 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

2.The learned counsel appearing for the petitioner submitted that the petitioner is the defacto complainant and he filed complaint before the law enforcing agency as against the private respondents and a case was registered in Crime No.1966 of 2015 for the offence under Sections 416, 420 and 506(i) of I.P.C. and after investigation,

2/6



Crl.R.C.Nos.1061, 1118 and 1111 of 2024

the law enforcing agency filed charge sheet as against seven accused in C.C.No.1114 of 2016 on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai for the offence under Sections 416, 420 and 506(i) of I.P.C. @ 419, 420, 465, 468, 471, 474, 120(b), 506(i) of I.P.C. Thereafter, A1 to A5 filed discharge petitions in Crl.M.P.Nos.2685 of 2023, 2687 of 2023 and 1835 of 2016 and the said petitions were allowed.

3.The learned counsel appearing for the petitioner further submitted that discharge petition can be entertained only when prima facie case is not available and when there is no material to proceed further. In the present case, when the petitioner was in abroad all the accused colluded, impersonated the petitioner and executed power of attorney in favour of the petitioner's sister and manipulated and grabbed huge money from the petitioner inorder to purchase the property. The learned counsel further submitted that the petitioner has no objection for discharge of A2 and raised serious objection in respect of the other accused.

4.The learned Senior Counsel appearing for R2 & R3 in



Crl.R.C.Nos.1061, 1118 and 1111 of 2024

Crl.R.C.1118/2024 and for R2 in Crl.R.C.1111/2024 submitted that this Court may set aside the impugned order in respect of A1, A3, A4 and A5 and may confirm the impugned order in respect of A2.

5.The learned counsel appearing for R2 & R3 in Crl.R.C.1061/2024 adopted the submission made by the learned Senior Counsel appearing for R2 & R3 in Crl.R.C.1118/2024 and for R2 in Crl.R.C.1111/2024.

6.In view of the consent view expressed by the learned counsel appearing for the petitioner and the learned counsel appearing for the private respondents, this Court set aside the order dated 07.03.2023 passed in Crl.M.P.Nos.2685 and 2687 of 2023 respectively, in C.C.No.1114 of 2016 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and confirm the order dated 12.12.2022 passed in Crl.M.P.No.1835 of 2016 in C.C.No.1114 of 2016 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai.

7.Considering the age of the private respondents/ R2 & R3 in Crl.R.C.1061/2024 and R2 & R3 in Crl.R.C.1118/2024, their appearance before the Trial Court is dispensed with except on three



Crl.R.C.Nos.1061, 1118 and 1111 of 2024

occasions, i.e., they shall be present before the trial Court for receiving copies under Section 207 of Cr.P.C., at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement. However, if for any particular reason, the presence of the private respondents/ R2 & R3 in Crl.R.C.1061/2024 and R2 & R3 in Crl.R.C.1118/2024 is necessary, the trial Court, at its wisdom, shall direct their appearance on those days.

8.The learned IX Metropolitan Magistrate, Saidapet, Chennai, shall decide C.C.No.1114 of 2016 independently based on the materials available on record and without being influenced by any of the observations made in this order.

9.The criminal revision cases in Crl.R.C.Nos.1061 of 2024 and 1118 of 2024 are allowed. The criminal revision case in Crl.R.C.No.1111 of 2024 is dismissed.

23.07.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

5/6



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Crl.R.C.Nos.1061, 1118 and 1111 of 2024

M.DHANDAPANI,J.
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To

- 1.The IX Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Inspector of Police
J-5, Shastri Nagar Police Station,
Chennai.
Crime No.1966 of 2015

**Crl.R.C.Nos.1061, 1118
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23.07.2024