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Crl.RC No.1986 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1986 of 2024
and Crl.M.P.Nos.16183 & 16182 of 2024

G.Suriyamurthy ... Petitioner/Accused No.3

Vs.

1. The State of Tamil Nadu,
Rep. By the Sub Inspector of Police,
Central Crime Branch,
EDF-II, Team-37,
Vepery, Chennai – 600 007. ... Respondent/Complainant

2. R.Rajamohan ... Respondent/Defacto Complainant

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to call for the records of the Metropolitan Magistrate, CCB Cases and CBCID (Metro Cases) Egmore, Chennai – 600 008 order passed in Crl.M.P.No.57378 of 2024 in C.C.No.3212 of 2023 dated 23.09.2024, set aside the order and allow the revision.

For Petitioner : Mr.S.Illamvaludhi

For Respondent : Mr.S.Udaya Kumar (for R1)
Government Advocate (Crl. Side)

Mr.Selvi George (for R2)



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ORDER

The Criminal Revision Case has been filed challenging the order dated 23.09.2024 made in Crl.M.P.No.57378 of 2024 in C.C.No.3212 of 2023 on the file of the learned Metropolitan Magistrate, CCB Cases and CBCID (Metro Cases), Egmore, Chennai, dismissing the petitioner's discharge petition mainly on the ground that it was filed after the lapse of 60 days from the date of filing of the final report, as provided under Section 266 of BNSS.

2. The petitioner is A3 in the final report filed in C.C.No.3212 of 2023. The complaint was filed by the 2nd respondent originally in the year 2003 and it appears that the 1st respondent had initially referred the complaint as 'mistake of fact'. The 2nd respondent had challenged the said final report before this Court and on the direction of this Court, further investigation was conducted by the 1st respondent and a positive final report was filed on 18.07.2022. On the application by one of the accused, the learned Magistrate had directed further investigation and a final report was filed on 23.07.2024. Thereafter, the petitioner filed the petition for discharge on 20.08.2024. The learned Magistrate however, dismissed the



petition on 23.09.2024 stating that the discharge petition ought to have been filed within 60 days from the date of earlier final report in terms of Section 266 of BNSS and therefore, the discharge petition is not maintainable.

3. Heard the learned Government Advocate (Crl.Side) appearing for the 1st respondent/State and the learned counsel for the 2nd respondent/defacto complainant and perused the materials available on record.

4. This Court is of the view that admittedly, on the application made by A2, further investigation was ordered by the learned Magistrate. When the further investigation before the 1st respondent was pending, the petitioner cannot be expected to file a discharge petition as he has to necessarily await the result of the further investigation. The report on the further investigation was filed on 23.07.2024 and the petitioner had thereafter filed the discharge petition within 30 days. Therefore, the impugned order dismissing the petition on the ground of delay cannot be sustained. The petition filed by the petitioner has to be considered on its merits.



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5. Therefore, the impugned order dated 23.09.2024 made in Crl.M.P.No.57378 of 2024 in C.C.No.3212 of 2023 on the file of the learned Metropolitan Magistrate, CCB Cases and CBCID (Metro Cases), Egmore, Chennai, is set aside. The learned Magistrate is directed to consider the petitioner's discharge petition on its own merits, after hearing all parties concerned.

6. The Criminal Revision Case stands allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

10.12.2024

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No.
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To

1. The Metropolitan Magistrate,
CCB Cases and CBCID (Metro Cases), Egmore, Chennai,

2. The Sub Inspector of Police,
Central Crime Branch,
EDF-II, Team-37,
Vepery, Chennai – 600 007.



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3. The Public Prosecutor,
High Court, Madras.

SUNDER MOHAN, J.

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