



Crl.R.C.No.34 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.02.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.34 of 2025
and
Crl.M.P.Nos.207 and 208 of 2025

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K.Himavantha Kumar

.. Petitioner

Vs.

The State Rep. by
Assistant Commissioner of Police,
EDF-1, Central Crime Branch,
Vepery, Chennai-600 007.

.. Respondent

Criminal Revision Case filed under Section 438 read with Section 442 of BNSS, 2023, praying to set aside the order dated 19.11.2024 passed by the Special Judge, Special Court for the cases under the Prevention of Corruption Act, Chennai, in Crl.M.P.No.93 of 2023 in C.C.No.13 of 2022.

For petitioner : Mr.B.Kumarasamy

For respondent : Mr.S.Sugendran, Addl.P.P.

ORDER

The petitioner/A.4 has filed the present revision petition challenging the order dated 19.11.2024 passed by the Special Judge, Special Court for the cases under the Prevention of Corruption Act, Chennai, in Crl.M.P.No.93 of 2023 in C.C.No.13 of 2022.

Page No.1/6



CrI.R.C.No.34 of 2025

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2. Learned counsel for the petitioner submitted that the petitioner/A.4 was working as Principal in a College. The petitioner/A.4 is a student who studied Law and while he was in service in Southern Railway, he suppressed the fact that he obtained Law Degree. He admitted that he got himself enrolled as an Advocate in the Bar Council of Tamil Nadu and Pondicherry. While verifying his background of enrolment, it was found that the petitioner/A.4 suppressed the fact while he was in service that he has completed the Law Degree course and only in order to get enrolment in Law Degree, A.2 and A.3 induced the petitioner/A.4 to get a Bona-fide Certificate by corrupt practices. A.2 is the Principal and knowing fully well that A.1 was in service otherwise, there was no adequate percentage (%) of attendance to complete the course and he aided A.1 by giving the bona-fide Certificate for enrolling himself as an Advocate and even A.1 has given a confession statement, in which he has stated about the involvement of the petitioner/A.4 and also the petitioner himself has made a confession statement in which he has admitted the fake enrolment of the Law Degree.

3. The learned counsel for the petitioner submitted that the confession statement was obtained from the petitioner/A.4 by coercion, and hence, the

Page No.2/6



CrI.R.C.No.34 of 2025

same is not admissible in evidence, and therefore, the petitioner/A4 may be discharged from the case.

4. However, on a reading of the entire materials available on record, it is clear that a prima-facie materials are available against the petitioner/A.4 also to proceed with the case further before the trial Court.

5. It is settled proposition of law that, while deciding the petition for discharge under Section 239 Cr.P.C., the Court has to see from the materials produced by the prosecution that whether there is prima-facie case to proceed with the case further and not from the defence of the accused. The Court also cannot conduct roving enquiry regarding the validity of the materials, which has to be decided only after trial.

6. It is the duty of the prosecution to substantiate the materials by producing the admissible evidence. This can be done only during trial and not at this stage of deciding the petition for discharge.

7. It is also settled proposition of law that while deciding the petition for discharge, the defence of the accused cannot be gone into and at this stage, the



Crl.R.C.No.34 of 2025

said defence can be decided only after trial.

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8. On a further perusal of the materials available on record and the statement recorded from the petitioner/A.4 under Section 161 Cr.P.C., and also the confession statement recorded from A.1 and the present petitioner/A.4, this Court finds that there are prima-facie materials to proceed against all the accused persons, and hence, the trial Court rightly considered the case of the prosecution while dismissing the petition filed under Section 239 Cr.P.C.

9. Therefore, this Court does not find any reason to interfere with the impugned order passed by the trial Court. Moreover, the grounds now taken by the petitioner/A.4 are nothing but defence, which can only be decided after trial.

10. Hence, this revision petition is dismissed. Consequently, the stay petition in Crl.M.P.No.207 of 2025 and petition to dispense with appearance before the trial Court, in Crl.M.P.No.208 of 2025 are closed.

12.02.2025

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Page No.4/6



Crl.R.C.No.34 of 2025

WEB COPY

To

1. The Special Judge, Special Court for the cases under the Prevention of Corruption Act, Chennai.
2. The Section Officer, Criminal Section, High Court, Madras.
3. Assistant Commissioner of Police,
EDF-1, Central Crime Branch,
Vepery, Chennai-600 007.
4. The Public Prosecutor, High Court, Madras.



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Crl.R.C.No.34 of 2025

P.VELMURUGAN, J

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Crl.R.C.No.34 of 2025

12.02.2025

Page No.6/6