



WEB COPY



Crl.R.C.No.258 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.258 of 2025

and

Crl.M.P.No.2287 of 2025

Krishnamoorthy

... Petitioner

Vs

State represented by its
The Inspector of Police,
D-5, Marina Police Station,
Chennai.

... Respondent

PRAYER:

Criminal Revision Case filed under Section 438 and 442 of BNSS, to set aside the order passed in Crl.M.P.No.38108 of 2024 in C.C.No.6703 of 2023 dated 12.12.2024 by the learned II Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner : Mr.M.Jaikumar

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



Crl.R.C.No.258 of 2025

WEB COPY

ORDER

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.38108 of 2024 in C.C.No.6703 of 2023 dated 12.12.2024 by the learned II Metropolitan Magistrate Court, Egmore, Chennai.

2. The petitioner arrayed as A1 in C.C.No.6703 of 2023 on the file of the II Metropolitan Magistrate, Egmore, Chennai. The learned Magistrate framed the charges against the petitioner and other accused for the offence under Sections 147, 365, 342, 347, 384 and 506(i) IPC. Pending CC, the petitioner has filed the petition for discharging him from the abovesaid case, by invoking section 239 Cr.P.C., in Cr.M.P.No.38108 of 2024. The learned Magistrate, after considering the materials, dismissed the petition vide impugned order dated 12.12.2024. Aggrieved over the same, the petitioner has filed this Criminal Revision Petition.

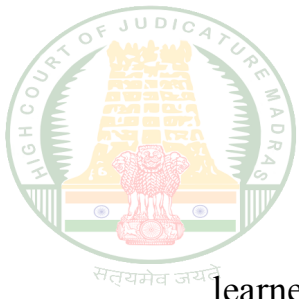


Crl.R.C.No.258 of 2025

WEB COPY

3. The learned counsel for the petitioner submitted that the petitioner has been arrayed as A1. He is not involved in the alleged offences. Even the Sub Registrar has clearly spoken that at the time of occurrence, the defacto complainant was in comfortable position. The dispute between the parties is civil in nature. The respondent Police has given criminal colour to the civil dispute. No threat, cheat, coercion and undue influence was made by the petitioner. The learned Magistrate failed to consider the materials, framed the charges against the petitioner mechanically. Hence the impugned order passed by the learned Magistrate has to be dismissed/set aside and the revision may be allowed.

4. The learned Additional Public Prosecutor appearing for the respondent-Police submitted that sufficient materials are available to frame charges against the petitioner. The learned Magistrate has also considered the complaint and also the statement of the witnesses recorded under Section 161 Cr.P.C., by the Investigating Officer, framed the charges against the petitioner. When the petitioner approached the



Crl.R.C.No.258 of 2025

WEB COPY

learned Magistrate by invoking under Section 239 Cr.P.C., for discharging him from the said charges, the learned Magistrate has rightly dismissed the petition. There is no merit in the revision and the same is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent-Police and perused the materials available on record.

6. Admittedly, the petitioner has been arrayed as first accused in C.C.No.6703 of 2023 on the file of the II Metropolitan Magistrate, Egmore, Chennai for the offence under Sections 147, 365, 342, 347, 384 and 506(i) IP. The defacto complainant and other eye witnesses have clearly spoken about the involvement of the petitioner in the said offences. A reading of entire materials and the order passed by the learned Magistrate, this Court finds that there are prima facie materials available against the petitioner to proceed the case further. This Court finds that there is no merit in the petition.



Crl.R.C.No.258 of 2025

WEB COPY

7. It is a well settled proposition of law that at the time of disposing the discharge petition filed under Section 239 Cr.P.C., the Court has to see the materials produced by the Investigating agency and not the defence taken by the accused. A fair reading of materials produced by the Investigating Officer, including charge sheet, and statements recorded from the prime witnesses, there are prima facie materials available to proceed the case against the petitioner also. The learned Magistrate rightly discussed and found that the petitioner has no grounds to discharge him from the case in C.C.No.6703 of 2023. This Court does not find any legal ground to discharge the petitioner from the said offences. The grounds taken by the petitioner are nothing but defence, which can be agitated only during trial not at this stage.

8. Under the above facts and circumstances of the case, this Court does not find any reason to interfere with the order passed by the learned Magistrate. Hence, the Criminal Revision Petition is dismissed. However, the petitioner is at liberty to take all his defence before the trial court during trial.



Crl.R.C.No.258 of 2025

WEB COPY

9. With the abovesaid direction, this Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed.

12.02.2025

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The II Metropolitan Magistrate Court, Egmore, Chennai.
2. The Inspector of Police,
D-5, Marina Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Chennai.



WEB COPY



Crl.R.C.No.258 of 2025

P.VELMURUGAN, J

mfa

Crl.R.C.No.258 of 2025
and
Crl.M.P.No.2287 of 2025

12.02.2025