



Crl.R.C.No.645 of 2023

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**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 13.03.2025**

**CORAM**

**THE HON'BLE MR. JUSTICE P.VELMURUGAN**

**Crl. R.C.No.645 of 2023**

**and**

**Crl.M.P.No.4893 of 2023**

Subramani

... Petitioner

Vs.

State represented by  
The Inspector of Police,  
Sipcot Police Station,  
Hosur, Krishnagiri District.

... Respondent

**PRAYER:**

Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., to call for the records pertaining to the order dated 10.01.2023 passed in Crl.M.P.No.2895 of 2022 in C.C.No.115 of 2022 by the learned Judicial Magistrate No.II, Hosur and to set aside the same.

For Petitioner : Mr.A.Balamurugan

For Respondent : Mr.S.Sugendran  
Additional Public Prosecutor



Crl.R.C.No.645 of 2023

WEB COPY

## **ORDER**

This Criminal Revision Petition has been filed challenging the order dated 10.01.2023 passed in Crl.M.P.No.2895 of 2022 in C.C.No.115 of 2022 by the learned Judicial Magistrate No.II, Hosur.

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

3. Learned counsel for the petitioner submitted that there is no prima facie material available as against the petitioner that too no witnesses have spoken to about the involvement of the petitioner in the said offences, that the accused cannot be prosecuted based on the confession statement made by the co-accused, that to, no ingredient is available for the offences stated to have been made out as against the petitioner Hence, the petitioner filed a petition under Section 239 Cr.P.C., to discharge him from the case in C.C.No.115 of 2022 and that however, the learned Magistrate vide impugned order dated 10.01.2023 dismissed the petition.



Crl.R.C.No.645 of 2023

WEB COPY

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent-Police submitted that A1 and A2 have made confession statements, in which, they have clearly admitted that the petitioner has also committed the offence that the investigation reveals prima facie material available as against all the accused including the revision petitioner/A4 and that the learned Magistrate, rightly discussed the available materials and dismissed the petition.

5. The respondent-Police registered a case against the petitioner and others in Crime No.467 of 2021 for the offences under Section 457 and 308 IPC, in which, the petitioner has been arrayed as A4. On a reading of statements recorded by the prosecution from the witnesses and also the confession statements made by all the accused including the petitioner, prima facie materials are available to proceed with the case further as against the petitioner. The questions as to whether the confession statement is admissible in evidence, whether the confession alleged to have been obtained from the petitioner is valid in law and whether the petitioner/ accused can be convicted based on the



CrI.R.C.No.645 of 2023

WEB COPY

confession statements of the co-accused etc., all can be decided after trial and not at this stage.

6. It is a settled proposition of law that while disposing the discharge petition filed under Section 239 Cr.P.C., the Court has to see the materials placed by the prosecution and not the defence taken by the petitioner/accused. The grounds taken by the petitioner in this revision petition are nothing but defence, which can be decided only after trial and not at this stage. It is seen that the petitioner has been arrayed as A4 in the case and the confession statements of the co-accused have also been recorded. The statements under Section 161(3) Cr.P.C were recorded from the witnesses. Considering the materials available on record, this Court finds that there are *prima facie* materials available as against the petitioner to proceed further with the case. Hence, this Court does not find any perversity in the order passed by the learned Metropolitan Magistrate.



Crl.R.C.No.645 of 2023

WEB COPY

7. In view of the above, this Criminal Revision Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed. The petitioner is at liberty to take all his defence before the trial court during trial.

**13.03.2025**

*mfa*

*Index: Yes/No*

*Speaking Order: Yes/No*

*Neutral Citation: Yes/No*

To

1. The Judicial Magistrate No.II, Hosur.
2. The Inspector of Police,  
Sipcot Police Station,  
Hosur, Krishnagiri District.
3. The Public Prosecutor,  
High Court of Madras,  
Chennai.



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Crl.R.C.No.645 of 2023

**P.VELMURUGAN, J.**

*mfa*

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