

In the Court of the Principal Sessions Judge,  
Cuddalore District, Cuddalore.

Present: Tmt.K.Govindarajan Thilagavadi,B.A.,B.L.,  
Principal Sessions Judge,

Tuesday, the 4<sup>th</sup> day of September, 2018

**C.M.P.No.112/2018 in S.C.No.391/2017**

Murugaiyan, age 48 years (A-12)  
S/o. Rengasamy,  
No.74, K.R.M. Nagar,  
Annamalai Nagar,  
Chidambaram Taluk,  
Cuddalore District

.. Petitioner/Accused A-12

Versus

State Rep. by  
The Inspector of Police,  
Annamalai Nagar P.S.  
Cr.No.125/2014

.. Respondent/Complainant

This petition is coming on 02.08.2018 for final hearing before me in the presence of Tvl.R.Sankarasubbu and K.Sivaraj, Advocates for the Petitioner and of Thiru.G.Chandrasekaran, Public Prosecutor for the Respondent and upon hearing both sides and upon perusing the case records and having stood over for consideration till this day, this Court is delivered the following:

### **ORDER**

This petition has been filed u/sec. 227 of Cr.P.C. to discharge the petitioner from the charges levelled against him.

#### **2. The gist of the petition averments are as follows:**

The petitioner/accused A12 is charged for the offences u/sec. 147, 148, 212, 150 r/w 120B and 149 IPC and sec. 3(a)4(b)(i) of Explosive Substances Act 1908

and sec. 3 r/w 25(1)(B)(a) of Indian Arms Act and sec. 4 of TNP (PDL) Act, 1992. The petitioner is innocent and ignorant of the prosecution case. It is alleged that the petitioner as per confession statement of Surendran-A3 instigated one Surendran to do away the said Kumar and his younger brother were taking steps to murder him and sought the assistance of petitioner/accused 12 who in turn gave Rs.one lakh and promised to provide him all helps to purchase the weapons and further all assistance. The said statement is vague and there is no particular date and time and hence the said statement is bereft of particulars. The petitioner is decently placed and he is working as Mechanical Engineer at Annamalai University, Annamalainagar, Chidambaram and hence the entire allegations are malice in law. Taking totality of circumstances and the materials placed before the court no offence is made out. The petitioner's name is not in the array of conspiracy under sec.120B IPC and further he is not near the scene of occurrence and he had no knowledge about the alleged occurrence and he suffered over three years due to the said case. Hence it is just and necessary to discharge the petitioner from the accusation as the charges are groundless to secure the ends of justice. Hence this petition.

### **3. The objections raised by the prosecution in the counter are as follows:-**

The petition is not maintainable in law. There is no merit at all in the petition and the petitioner has deliberately given a distorted version in his petition. Further the petition does not make out any case for discharge and the petitioner has not also elaborated how there is no prima facie case made out against the petitioner. The petitioner has not made any effort to establish that the prosecution side evidence is inadequate against the petitioner. The social status or otherwise is not a relevant factor for discharging the petitioner. For the purpose of sec.227 Cr.P.C. the prosecution materials cannot be assessed before trial and such an exercise is very limited to find out whether the prima facie case can made out against the accused or not? Further there is no scope for any discharge in case of the Special Enactments like Explosive Substance Act, Indian Arms Act and TNP (PDL) Act 1992.

Therefore this petition does not merit any consideration of this court both factually and legally. Further in the administration of criminal justice, the balance is only in favour of the prosecution before trial. At this stage, this court cannot shift or analyze evidence which has to be done only during trial. The petitioner has unnecessarily confused himself seeking to quash the proceedings in his petition. Hence the petition is liable to be dismissed.

**4. Upon perusing the pleadings and documents and hearing the arguments on both sides, only the point for determination in this petition is:**

*Whether this petition is to be allowed or not?*

**5. Point:**

This petition is filed by the petitioner/12th Accused U/s. 227 Cr.P.C. to discharge him from the accusation levelled against him. The petitioner has been charged for the offences u/sec. 120B, 150 and sec. 3(a) and 4(b)(i) of Explosive Substances Act 1908 r/w sec. 149 IPC. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he was implicated in this case only based on the confession statement of A3 Surendran. The above statement of A3 is vague and is bereft of particulars. He would further submit that the petitioner/accused A12 is working as Mechanical Engineer at Annamalai University and the entire allegations against him are false. It is further submitted that the materials placed before this court do not make out any case against the petitioner. It is also further submitted that the petitioner was not arrayed as accused for committing the offence of conspiracy. It is further submitted that the entire prosecution case is motivated with intention to ruin the social life of the petitioner and therefore prays for discharging the petitioner from the accusation levelled against him.

6. On the other hand the learned counsel appearing for the state would submit that there are ample evidences as well as statements from the co-accused and witnesses to establish that the petitioner has involved in the alleged offences. It is submitted that it is open to the prosecution to establish the accusation against the petitioner during the course of trial in view of the other incriminating offences.

7. Heard on both side. Records perused. An accused can be discharged from the accusation only in the following circumstances:

- (a) where the evidence produced is not sufficient;
- (b) where there is no legal ground for proceeding against the accused;
- (c) where no sanction has been obtained;
- (d) where the prosecution is clearly barred by limitation;
- (e) where he is precluded from proceeding because of a prior judgment of High court;

While considering the question of framing the charges, under sec. 227 of the Code this court has power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. At the stage of framing of charge, this court has to see whether the material brought on record would reasonably connect the accused with the crime. No more is required to be inquired into. Only prima facie case is to be seen, the question whether the charges have been proved or not can be determined only after the evidence is recorded at the time of trial. Where the materials collected during investigation showed that the accused persons had conspired for commission of alleged offence, the accused cannot be discharged. In this case according to the prosecution, the petitioner/A12 was working at Annamalai University conspired with A3 Surendaran planned to eliminate one Kalungumedu Kumar and his brother Rajesh due to prior

animosity and also monetarily helped by tendering Rs. 1 lakh to the accused A3 and also conspired with other accused persons prior to the alleged occurrence. Hence the petitioner/accused A12 was charged for the offences punishable u/sec. 120B, 150 and sec. 3(a) and 4(b)(i) of Explosive Substances Act 1908 r/w sec. 149 IPC. Hence at this stage a prima facie case is made out against the petitioner/accused A12.

8. Moreover the learned counsel for the state also argued that there are other incriminating materials which would implicate the petitioner for committing the alleged offences. Therefore it would be appropriate that these evidences should be put to test under proper trial. Since there is prima facie case for proceeding against the accused, the petitioner/A12 cannot be discharged at this stage. Hence necessary trial has to be conducted and thereby this petition has no merits and deserves to be dismissed. Accordingly this petition is dismissed. Thus this point is answered.

9. In the result, this petition is dismissed.

Dictated to the Steno-typist, transcribed and typed by her, corrected and pronounced by me in the open Court this the 4<sup>th</sup> day of September, 2018.

PRINCIPAL SESSIONS JUDGE,  
CUDDALORE.  
04.09.2018.

Draft/Fair Order

C.M.P.No.112/2018 in

S.C.No.391/2017

Dated: 04.09.2017.