

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.08.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.19359 of 2015

and

MP.No.1 of 2015

Ranjan

...Petitioner

Vs

State by its
Inspector of Police,
El-Mamallapuram Police Station,
Mamallapuram,
Kanchipuram District.

...Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for records relating to the case in PRC.No.15 of 2012 pending committal on the file of the Judicial Magistrate at Thirukazhukundram, Kanchipuram District and quash the same with regard to this petitioner.

For Petitioner : Mr.K.G.Senthil Kumar

For Respondent : Mr.C.Emalias,
Addl. Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in PRC.No.15 of 2012 on the file of the learned Judicial Magistrate, Thirukazhukundram, Kanchipuram District.

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

3. It is the case of the prosecution that the deceased by name Pushpalingam and the petitioner herein were involved in a quarrel in which, the petitioner was assaulted by Pushpalingam and

others. Aggrieved by that, it is alleged that this petitioner had set-up A3 and others to attack Pushpalingam. On 15.03.2012, when Pushpalingam was going for his morning walk along with the de facto complainant, they were waylaid and Pushpalingam was indiscriminately attacked and he died.

4. Mr.Senthil Kumar, learned counsel for the petitioner submitted that the name of this petitioner does not figure in the FIR, but it has been included only subsequently in the statement recorded by the police and therefore, the proceedings against the petitioner is an abuse of process of law.

5. In the considered opinion of this Court, FIR is not an encyclopedia of the prosecution case and therefore, the failure of the de facto complainant to mention the name of the petitioner in the FIR cannot be fatal and that cannot be a reason for this Court to quash the entire proceedings under Section 482 Cr.P.C.

6. The petitioner is charged for the offence with the aid of Section 149 IPC for having been present in the scene of occurrence. This is once again a question of fact, which has to be determined by the Trial Court. Anything observed herein is only for the limited purpose of deciding the quash application and the Trial Court is directed to decide the case on merits, without being influenced whatever observation made herein. As this case is of the year 2012, if the accused are not co-operating, it is open to the Court to remand them to custody as laid down by the Hon'ble Supreme Court in State of U.P. Vs Shambunath Singh JT 2001 [4] SC 319.

With the above directions, this petition is closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

gya

To

1.Judicial Magistrate,
Thirukazhukundram.

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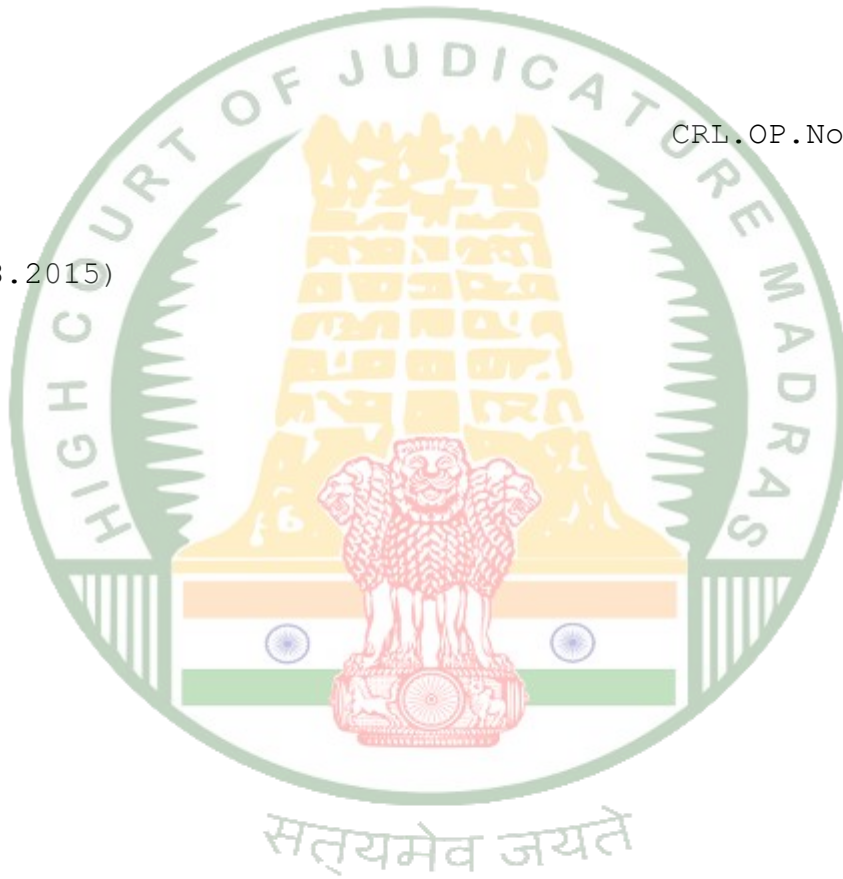
2.-Do- Through The Chief Judicial Magistrate,
Chengalpattu.

3.Inspector of Police,
El-Mamallapuram Police Station,
Mamallapuram,
Kanchipuram District.

4.The Public Prosecutor,
High Court, Madras.

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GP (CO)
PSI (17.08.2015)



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