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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2015

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.85 of 2015
and M.P.No.1 of 2015

N.K.Panneerselvam

... Petitioner

vs.

The Inspector of Police
Central Crime Branch,
Egmore, Chennai.

... Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to proceeding in C.C.No.922 of 2007 on the file of Chief Metropolitan Magistrate, Egmore, Chennai and set aside the same and order for further investigation.

For Petitioner : Mr.G.Mohanakrishnan
For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to call for the records relating to proceeding in C.C.No.922 of 2007 on the file of Chief Metropolitan Magistrate, Egmore, Chennai and to set aside the same and order for further investigation.

2. Heard the learned counsel appearing for the petitioner and the Additional Public Prosecutor appearing for the respondent.

3. On a complaint lodged by one Srinivasaraj, the respondent-Police registered a case in Crime No.486 of 2006 on 22.06.2006 for offences under Section 341, 342, 347, 365, 384, 385, 388 and 506[ii] read with Section 109 IPC against four persons. Investigation was taken up by the Police and on completion of investigation, a final report was filed against the said four persons, which was taken on file as C.C.No.922 of 2007 by the Trial Court. Process was issued to the accused and they appeared and charges were also framed.



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4. During the pendency of trial, the complainant Srinivasaraj/defacto complainant appears to have died. The prosecution filed an application under Section 311 of Cr.P.C. including N.K.Panneerselvam, the petitioner herein, as one of the prosecution witnesses and that was allowed.

5. It is seen from the records that N.K.Panneerselvam, the petitioner herein, was examined in chief as PW1 by the Trial Court on 09.12.2014 and his cross-examination was deferred at the request of the accused. It is represented by the learned Public Prosecutor that another witness by name Jyothi (LW4) was examined as PW2.

6. Now, it is the grievance of the learned counsel for the petitioner that the Police have not examined Md.Ismail (LW2) and Mustafa (LW3). Therefore, the learned counsel for the petitioner wants this Court to issue a positive direction to the Police to examine these two persons as witnesses.

7. It is a settled law that, it is not the number of witnesses that are required to prove the case, but the quality of evidence is essential. Conviction can be based on the evidence of solitary witness, if the same inspires confidence. At the same time, the prosecution should not be lethargic and try to burke other important witnesses for protecting the accused.

8. This Court is confident that the Trial Court would bestow its kind attention to this aspect and would take steps to examine LW2 and LW3, if their examination is essential and warranted. In case, some witnesses have been gained over by the accused, it is always open to the prosecution, not to examine them as witnesses and a positive direction as sought for by the learned counsel for the petitioner cannot be granted.

9. This Court finds that this case is of the year 2006 and therefore, it will be in the interest of justice, a direction is given to the Trial Court to expeditiously conduct a trial and complete the same, within a period of six months from the date of receipt of a copy of this order.

10. With the above direction, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

gya/ds

s/d-
Assistant Registrar(V)

True Copy

Sub-Assistant Registrar



To

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.

2. The Inspector of Police
Central Crime Branch,
Egmore, Chennai.

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.G.Mohanakrishnan, Advocate SR 22368

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