

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM
Crl.R.C.No.267 of 2014
and
M.P.Nos.1 and 2 of 2014

Rajesh
S/o.Albert

.. Petitioner/Accused

vs.

The State represented by
Inspector of Police,
El, Mylapore Police Station,
Chennai.

Crime NO.1270 of 2001

.. Respondent/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order of learned VII Additional Sessions Judge,
Chennai, passed in Crl.M.P.No.4925 of 2013 in S.C.No.161 of 2013
on 20.12.2013.

For Petitioner : Mr.N.R.Elango, senior counsel
for Mr.R.Vivekananthan

For Respondent : Mr.K.Madhan,
Government Advocate [Crl.side]

सत्यमेव जयते
O R D E R

This revision arises against the order of learned VII
Additional Sessions Judge, Chennai, passed in Crl.M.P.No.4925 of
2013 in S.C.No.161 of 2013 on 20.12.2013.

2. The case of the prosecution is that on 01.07.2001 at
about 03.00 p.m., while the de facto complainant and another
were gathering information for their television channel,
petitioner attacked the de facto complainant and strangulated
his neck using a mike wire. A case was registered in Crime
No.1270 of 2001 on the file of respondent for offences u/s.341,
323 and 307 IPC. Upon completion of investigation and filing of
charge sheet, the case was taken on file in S.C.No.161 of 2013

on the file of learned VII Additional Sessions Judge, Chennai. Petitioner moved CrI.M.P.No.4925 of 2013 seeking discharge. Court below, reasoning that prima facie case stands made out against the petitioner, dismissed the petition seeking discharge. This revision challenges such order.

3. Heard learned senior counsel for petitioner and learned Government Advocate [CrI.side].

4. Learned Senior counsel for petitioner submitted that the 161 Cr.P.C. statement of the Chief Medical Officer of the Government Hospital, Chennai, informs that the de facto complainant suffered injuries at the hands of unknown persons. Learned senior counsel submitted that owing to political rivalry, a false case stands preferred by a photographer of one political party presently in power against that of a rival political party. Though the case is of the year 2001 and charge sheet had been filed in the same year, the matter has been committed for trial only in the year 2013. Learned senior counsel submitted that in the instant case, there was very little in the case to inform commission of offence u/s.307 IPC as would justify requiring petitioner to face trial and it would have been proper for the Sessions Judge to exercise powers u/s.228(1)(a) Cr.P.C. by ordering transfer of the case to a Magistrate. Learned senior counsel submitted that in any event, the occurrence was of the year 2001 and the statement of the Doctor renders improbable a conviction. Learned senior counsel submitted that after the presentation of this revision, this Court had been pleased to pass an order of interim stay which has been extended from time to time. However, owing to mere non-listing of the case, the order of interim stay was not extended for a very short period and immediately during such period, a non-bailable warrant came to be issued against the petitioner despite great pleading there against, resulting in the petitioner being taken into custody and remaining so for a period of four weeks. Learned senior counsel submits that this has been done despite pendency of the revision and merely as an act of political vendetta.

5. Learned Government Advocate [CrI.side] raises strong objection. Relying on the counter, learned Government Advocate [CrI.side] contended that the 161 Cr.P.C. statements of the witnesses inform the involvement of this petitioner in the occurrence. Further, a prima facie case stands made out against the petitioner. Submitting that the Court below rightly has dismissed the discharge petition preferred by petitioner, learned Government Advocate [CrI.side] prays for dismissal of the present revision.

6. We concur with the submission of the learned Senior counsel that the statement of the Medical Officer renders possibility of conviction bleak. Contention that defacto complainant and the accused are photographers belonging to opposing political parties is not controverted.

7. Though it is in a rare case that this Court would quash proceedings on the ground of possibility of conviction being bleak, we find that the case relates to an occurrence of the year 2001 and the petitioner, pursuant to Non bailable warrant, has suffered incarceration for a period of four weeks.

In the circumstances, this Court is of the view that it would be appropriate to quash further proceedings. The Criminal Revision Petition is allowed. The order of learned VII Additional Sessions Judge, Chennai, passed in CrI.M.P.No.4925 of 2013 in S.C.No.161 of 2013 on 20.12.2013, is set aside. Petitioner shall stand discharged in case pending trial in S.C.No.161 of 2013 on the file of learned VII Additional Sessions Judge, Chennai. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-iii)

//True Copy//

Sub Assistant Registrar

gm

To

1.The VII Additional Sessions Judge,
Chennai.

2.The Inspector of Police,
El, Mylapore Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.267 of 2014

NMI (CO)
TR(30/01/2018)