

Crl.R.C.No.1042 of 2015
C.T.SELVAM, J

Today, the matter is listed under the caption "for being mentioned" at the instance of learned counsel for petitioners.

2. Heard learned counsel for petitioners and learned Government Advocate [Crl.side] for respondent.

3. Learned counsel for petitioners points out a typographical error in the last paragraph of the order dated 29.01.2016, in that, instead of C.M.P.No.62 of 2014, C.M.P.No.40 of 2014 has been mentioned.

Registry is directed to carry out necessary correction in the order dated 29.01.2016 and issue fresh order copy.

26.09.2018

gm

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 29.01.2016
CORAM:
THE HONOURABLE MR. JUSTICE C.T. SELVAM
Crl.R.C.No.1042 of 2015

1. Kasiammal
2. Kumaresan ... Petitioners/Accused 1 & 3

Vs.

The State represented by
The Inspector of Police
Singarapettai Police Station
Krishnagiri District ... Respondent/Complainant

Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records made in Crl.M.P.No.62 of 2015 in S.C.No.118 of 2014 order dated 21.8.2015 passed by the Sessions Judge, Fast Track Mahila Court, Krishnagiri and set aside the same.

For Petitioner : Mr. R.Sankarasubbu

For Respondent : Mr. C.Iyyapparaj
Government Advocate (Crl. Side)

O R D E R

The petitioners challenge the order of Sessions Judge, Fast Track Mahila Court, Krishnagiri dated 21.8.2015 passed in C.M.P.No.62 of 2014 in S.C.No. 118 of 2014.

2. The petitioners are accused 1 and 3 in a case registered in Crime No. 115 of 2013 on the file of respondent police. The case of the prosecution is, the petitioners/accused 1 and 3 along with accused Nos.2 and 4 hatched a criminal conspiracy to murder the deceased Jayakodi towards securing her husband's property. First accused is sister-in-law of deceased Jayakodi, third accused is his wife and accused 2 and 4 are sons of accused 1 and 3. Husband of deceased had passed away earlier. Murder of Jayakodi gave rise to registration of the case. Pursuant to investigation, charge sheet has been filed against four accused under Sections 120-B, 302 r/w 109 IPC.

3. The petitioners moved C.M.P.No. 62 of 2015 for discharge and the same was dismissed by the trial Court, which necessitated the preference of this Criminal Revision Case.

4. Heard learned counsel for petitioners and learned Government Advocate (Crl. Side) for respondent.

5. Learned counsel for petitioners submits that the petitioners are having a share in the property and therefore, the motive suggested by the prosecution is false. The confession statements given to the Investigating Officer suffer the bar under Section 25 of Indian Evidence Act. Learned Counsel submits that in dismissing the petition for discharge, the Court below had informed that the question of whether all the accused had planned to murder the deceased Jayakodi could be decided only during trial. It is the submission of learned Senior counsel that the investigation had not brought forth any incriminating material against the petitioners.

6. Learned Government Advocate submits that confessions of the co-accused, sons of the first petitioner, finds corroboration in the statement of most of the witnesses to the effect that the petitioners had a motive to do away with the deceased. The case is based on circumstantial evidence. Therefore, the prosecution has produced evidence to prove the circumstances and motive to establish the guilt of the accused. Further, prosecution finds support for its case against these petitioners based on recovery of weapons from accused 2 and 4 effected in the presence of witnesses. Property originally belonged to husband of the deceased by name Settu. Petitioners/accused 1 and 3 objected to issue of a Legal Heirship Certificate to the deceased. Despite, their strong objection, Revenue Authorities issued Legal Heir Certificate in favour of deceased Jayakodi. Learned Government Advocate prays for dismissal of Revision Case.

7. We have considered the rival submissions.

8. A confession made to the Investigating Officer cannot be looked into since the same is hit by

Section 25 of Indian Evidence Act, which informs that no confession made to a police officer shall be proved as against the person accused of any offence. In the case of confession by accused persons, even admissible ones, a conviction cannot flow merely there upon. Such confession would have to find corroboration from other materials. The statement of witnesses which suggests that the accused had a motive to do away with the deceased would not amount to such corroborative material.

9. Accordingly, the Criminal Revision Case is allowed and the order dated 29.10.2015 passed in C.M.P.No. 40 of 2014 in S.C.No. 338 of 2013 is set aside and the petitioners stand discharged from the charges levelled against them. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ajr

To

1. Sessions Judge, Fast Track Mahila Court, Krishnagiri
2. The Inspector of Police, Singarapettai Police Station
Krishnagiri District
3. The Public Prosecutor High Court Madras

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