

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2016

CORAM:

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

Crl.O.P. No.25584 of 2016 & Crl.M.P. No.12453 of 2016

1 Dhandapani
2 Mangalavalli

Petitioners

Vs.

The Inspector of Police
Thiruvennainallur Police Station
Villupuram District
(Cr. No.606 of 2015)

Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to call for the records in P.R.C. No.8 of 2016 on the file of the Judicial Magistrate No.II, Ulundurpet, Villupuram District and quash the same insofar as the petitioner herein.

For petitioners

Mr. M. Purushothaman

For respondent

Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records in P.R.C. No.8 of 2016 on the file of the Judicial Magistrate No.II, Ulundurpet, Villupuram District and quash the same insofar as the petitioner herein.

2 On the complaint lodged by one Kumarasamy, the respondent police registered a case in Cr. No.606 of 2015 on 21.08.2015 and after completing the investigation, has filed a final report in P.R.C. No.8 of 2016 before the Judicial Magistrate Court No.II, Ulundurpet, Villupuram, for offences under Sections 147, 148, 323, 498-A, 120-B, 302 read with Section 149, IPC against Tamil Selvan, Arumugam, Rani, Dhandapani, Mummoothy, Mangalavalli and Punithavalli, challenging which, Dhandapani (A4) and Mangalavalli (A6) are before this Court.

3 Heard Mr. M. Purushothaman, learned counsel for the petitioners and Mr. C. Emalias, learned Additional Public Prosecutor appearing for the respondent-State.

4 It is the case of the prosecution that the deceased Anitha and Tamil Selvan (A1) were in love and that the family members of Tamil Selvan (A1) opposed their marriage. On 11.07.2015, when Anitha and Tamil Selvan (A1) went to Tirupathi for getting married, Dhandapani (A4) stopped the marriage and they returned to the village. On 17.07.2015, when Anitha went to the house of Tamil Selvan (A1) to discuss their marriage proposal, a quarrel ensued, in which, Anitha was attacked, for which, a case in Thiruvennainallur P.S. Cr. No.524 of 2015 was registered against Tamil Selvan (A1) and other accused. Thereafter, Tamil Selvan (A1) came out on bail and brought Anitha to Chennai, where, he lived with her. He took Anitha back to the village, but, did not take her to his house and at the instance of accused 3 to 5, he was not willing to marry her. In this regard, on the complaint given by Anitha, a petition enquiry in CSR No.276/2015 was conducted before All Women Police Station, Ulundurpet, on 30.07.2015. It is specifically alleged by the prosecution that on 18.08.2015, Armugam (A2) and the other accused exhorted and conspired to liquidate Anitha. Pursuant to the said conspiracy, on 20.08.2015, around 4.15 p.m., Tamil Selvan (A1) brought Anitha to his house in the guise of having marriage talks and there, he poured kerosene on Anitha and set her on fire with the active participation of the other accused resulting in the death of Anitha. Hence, the FIR and the consequential charge sheet which is being assailed in this quash application by Dhandapani (A4) and Mangalavalli (A6).

5 The learned counsel for the petitioners/accused submitted that there is no overt act attributed to the accused in the charge sheet, except stating that Mangalavalli (A6) had kicked Anitha at the time of the incident. In support of this contention, he placed reliance upon the medical certificates of Mangalavalli (A6) and Dhandapani (A4) to show that Mangalavalli (A6) was 60% physically disabled and Dhandapani (A4) was mentally challenged.

6 In the considered opinion of this Court, these are disputed questions of fact which cannot be gone into in a petition filed under Section 482, Cr.P.C. If Dhandapani (A4) is mentally challenged, it is for the Trial Court to pass appropriate orders under Chapter XXV, Cr.P.C. and not by this Court.

7 That apart, there is a specific allegation that all the accused had entered into a criminal conspiracy on 18.08.2015 to murder Anitha, pursuant to which only, Anitha was brought to the house of Tamil Selvan (A1) on 20.08.2015 and was set on fire. When there is a charge of conspiracy, the provisions of Section 10 of the Evidence Act will apply, thereby, the overt act of one accused is relevant as against the other accused.

8 Thus, since there are sufficient materials on record against the petitioners, this is not a fit case to be interfered with under Section 482, Cr.P.C.

In the result, this Criminal Original Petition is dismissed with liberty to the petitioners to raise all points before the Trial Court. Connected Crl.M.P. is closed.

cad

Sd/-
Assistant Registrar (CS-)

/TRUE COPY/

Sub-Assistant Registrar

To

1 The Inspector of Police
Thiruvannainallur Police Station
Villupuram District
(Cr. No.606 of 2015)

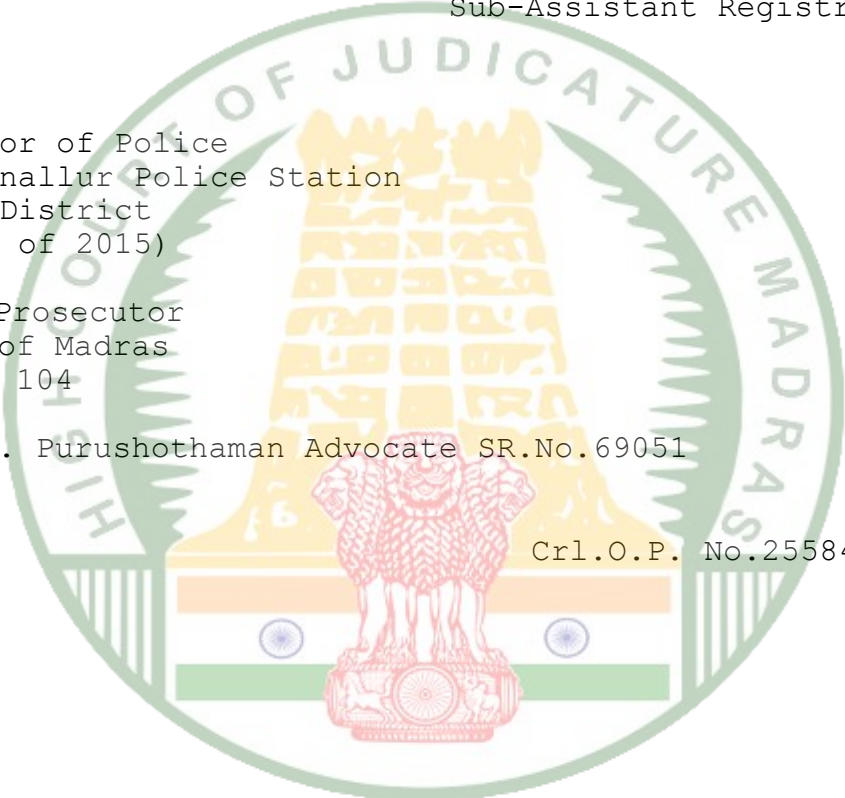
2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1 CC Mr. M. Purushothaman Advocate SR.No.69051

Crl.O.P. No.25584 of 2016

NM [CO]

MSI 20/01/2017

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is set against a background of a green and white striped field. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a green arc around the top of the emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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