

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2017

CORAM

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN**

Crl.O.P.No.5078 of 2017

and

Crl.M.P.No.3776 of 2017

1.Devendaran

2.Ramesh

3.Ramaraj @ T.V.Kararamaraj

4.Jegadeesan

[ Petitioners ]

Vs

State represented by  
The Inspector of Police,  
Shevapet Police Station,  
Salem City.  
(Cr.No.785/2012).

[Respondent]

Petition filed under Section 482 of the Criminal Procedure Code, to direct the learned I Additional Sessions Judge, Salem to eschew from consideration the evidences relating to the deceased accused Vijayakumar and the 313 Cr.PC questioning put to them and answers given by them relating to the deceased accused – Vijayakumar in S.C.No.12 of 2015.

For Petitioners : Mr.K.V.Sridharan

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

**ORDER**

This Criminal Original Petition has been filed seeking a direction to the learned I Additional Sessions Judge, Salem to eschew the

evidences relating to the deceased accused Vijayakumar and the Section 313 Cr.PC questioning put to them and answers given by them relating to the deceased accused – Vijayakumar in S.C.No.12 of 2015.

2.The case of the prosecution is that the petitioners joined together and committed the murder of one Sangeetha and her mother-Rani and also committed dacoity of money and jewels. P.Ws.12, 13, 14, 15 and 20 and the investigating officer were examined to speak about the arrest and recoveries made from the deceased co-accused Vijayakumar. Before the Trial Court, the counsel for the petitioners objected to the recording of evidence of the above witnesses relating to the deceased co-accused. According to the petitioners, the evidence relating to the deceased co-accused Vijayakumar is not a circumstance against the petitioners and that the statement of evidence relating to a co-accused is not admissible in law against the other co-accused.

3.The learned counsel for the petitioners vehemently contended that this Court in the order made in CrI.O.P.No.30674 of 2012 dated 17.12.2012 and the Hon'ble Supreme Court in its reported judgment in U.Subhadramma & Ors. v. State of A.P., rep.by Public Prosecutor

and another, reported in 2017-1-L.W.(Crl.)742, made it very clear that the Criminal Procedure Code does not provide any provision which enables continuation of prosecution upon the death of the accused.

4.The learned Additional Public Prosecutor, on the other hand, submitted that the case in S.C.No.12 of 2015 on the file of the I Additional Sessions Judge, Salem, is not proceeded against the dead person and that only remarks have been made against the dead person which is under protest, and the same will not be taken into consideration as far as the case of the petitioners is concerned. The said statement is recorded.

5.In view of the above statement made by the learned Additional Public Prosecutor, the prayer as sought for by the petitioners cannot be granted. The proceedings shall go on as provided under law and the trial Court shall decide the matter on merits and in accordance with law.

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

Index : Yes/No  
Internet : Yes/No  
KM

**07.06.2017**

**R.MAHADEVAN, J.**

KM

Note to the Registry: Issue order copy on 12.06.2017.

To

- 1.The Inspector of Police,  
Shevapet Police Station,  
Salem City.
- 2.The Public Prosecutor,  
Madras High Court,  
Chennai-600 104.

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