



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:20.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

CRL.O.P.(MD)No.9336 of 2017
and
CRL.M.P(MD)No.6342 of 2017

Aadhi Narayanan

... Petitioner

-Vs-

1. The Deputy Superintendent of Police,
CBCID, Madurai.
(Crime No.3 of 2014)

2. K.Kurinchinathan
3. M.Sankar
4. Vasanthi

... Respondents

PRAYER: Criminal Original petition filed under Section 482 of Criminal Procedure Code, to issue direction, directing the Additional District Sessions Court, Virudhunagar District at Virudhunagar, to add the fourth respondent as third accused in pending trial of S.C.No.69 of 2016 on its file.

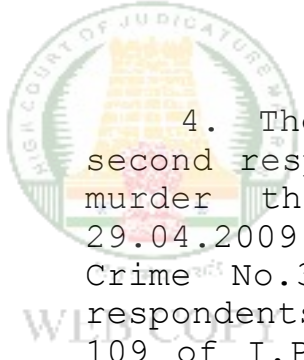
For Petitioner : Mr.R.Murugappan
For R-1 : Mr.K.Anbarasan,
Government Advocate(Crl. Side).

O R D E R

This Criminal Original petition is filed seeking a direction to the the Additional District Sessions Court, Virudhunagar District at Virudhunagar, to add the fourth respondent herein as third accused in pending trial of S.C.No.69 of 2016 on its file.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Criminal side) appearing for the first respondent.

3. The petitioner is the father of the deceased Balakrishnan. The deceased had married the fourth respondent. It is alleged that the fourth respondent had illegal relationship with the second respondent who is the first accused. It is stated that the illegal relationship came to the knowledge of the petitioner's son and was discovered and that therefore, the fourth respondent also involved in the crime.



4. The specific allegation of the petitioner is that the second respondent and the fourth respondent conspired together to murder the petitioner's son. The deceased was murdered on 29.04.2009 by the respondents 2 and 3. A case was registered in Crime No.33 of 2009 and Charge Sheet was filed against the respondents 2 and 3 under Sections 120(b), 341, 302, 404, 201 r/w 109 of I.P.C., and it was taken on file in S.C.No.69 of 2016 by the learned Additional District Sessions Court, Virudhunagar.

5. On the basis of the statements obtained from P.W.2, P.W.3, P.W.4, P.W.5, P.W.6 and P.W.12 under Section 161(3) of Cr.P.C., the petitioner submitted that the fourth respondent has to be shown as the third accused. However, the fourth respondent was shown as P.W.1. Originally, the fourth respondent reported that her husband was missing and the fourth respondent filed a Habeas Corpus petition in H.C.P.No.410 of 2009 before this Court for producing the deceased. Since the case was not conducted properly, the said Habeas Corpus petition was closed with a direction to the respondent police to pursue the investigation in Crime No.33 of 2009. Thereafter, the petitioner suspected the involvement of the fourth respondent in the murder of the petitioner's son.

6. Having regard to the various circumstances, the petitioner also filed a petition under Section 319 of Cr.P.C., before the Additional District Sessions Court, Virudhunagar, to add the fourth respondent herein as third accused in S.C.No.69 of 2016 instead of treating the fourth respondent as P.W.1 on the prosecution side. However, it is stated that the said application was returned by the learned Additional District Sessions Judge, Virudhunagar, raising a question, how the petition is maintainable, after the trial. It is in these circumstances, the petitioner has come forward with the present petition.

7. The learned Government Advocate(Criminal side) submitted that the trial Court has got power and the petition filed by the petitioner under Section 319 of Cr.P.C., ought to have been numbered.

8. In the said circumstances, this Court is inclined to pass the following direction:-

"The petitioner is directed to re-present the petition filed by him under Section 319 of Cr.P.C., within a period of two weeks from the date of receipt of a copy of this order. On receipt of such re-presentation, the learned Additional District Sessions Judge, Virudhunagar District, is directed to consider the disposal of the same in accordance with law within a period of three months from the date of receipt of a copy of this order."



9. With the above direction, the Criminal Original petition is disposed of. Consequently, connected Miscellaneous petition is closed.

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/True Copy/

Sd/-

Assistant Registrar (CS-I)

Sub Assistant Registrar

To

1. The Additional District Sessions Judge, Virudhunagar District, Virudhunagar,
2. The Deputy Superintendent of Police, CBCID, Madurai.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.R.Murugappan, Advocate SR.No. 66692

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PMU

JM/SKN RSK/SAR 1/21.07.2017/3P/5C