



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.06.2017

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

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Crl.O.P.(MD) Nos.3071 and 20768 of 2016
and Crl.M.P.(MD) No.1526 of 2016
in Crl.O.P.(MD) No.3071 of 2016 &
Crl.M.P.(MD) Nos.10562 & 10563 of 2016
in Crl.O.P.(MD) No.20768 of 2016

1. A.Godwin Jagadeesh Kumar ... Petitioner/A2 in Crl.O.P.(MD)
No.3071 of 2016
2. K.Krishnamoorthy ... Petitioner/A4 in Crl.O.P.(MD)
No.20768 of 2016

-vs-

The State Represented by
The Sub Divisional Magistrate-cum-Revenue Divisional Officer,
Madurai. ... Respondents/Complainant in both

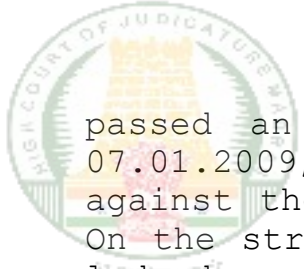
Common Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the entire records pertaining to the case in P.R.C.No.26 of 2012 pending on the file of learned Judicial Magistrate No.I, Madurai and quash the same as against the petitioners and pass such any or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner	: Mr.C.Jegannathan For M/s.Veera Associates (in Crl.O.P.(MD) 3071/2016) Mr.B.Chandramoohan (in Crl.O.P.(MD) 20768/2016)
For Respondent	: Mr.K.Anbarasan Govt. Advocate (Crl.Side)in Both cases

C O M M O N O R D E R

These two petitions have been filed, seeking to quash the case in P.R.C.No.26 of 2012 pending on the file of learned Judicial Magistrate No.I, Madurai against the petitioners/accused 2 & 4.

2. The facts of the present case makes interesting reading. One Packiyalakshmi, mother of Sathish Kumar gave a complaint dated 08.03.2006 to the respondent / Revenue Divisional Officer alleging that on 25.02.2006, her son Sathish Kumar was abducted by ~~Police from~~ Theppakulam Police Station and was assaulted. After conducting some enquiries, the Government of Tamil Nadu



passed an order in G.O.Ms.No.12 Public (Law and Order) dated 07.01.2009, issuing directions for initiating departmental action against the erring Policemen as well as launching of prosecution. On the strength of the said order, the Revenue Divisional Officer lodged a private complaint against nine persons before the Chief Judicial Magistrate, Madurai in P.R.C.No.4 of 2011 for the offence under Section 304(II) IPC and the case has been transferred to the file of learned Judicial Magistrate No.I, Madurai and the same has been re-numbered as P.R.C.No.26 of 2012 and is pending.

3. During the pendency of the complaint, it appears that Sathish Kumar was very much available and alive and kicking and he assumed the garb of a Sanniyasi and got involved in two criminal cases, namely, Melavalavu Police Station Crime Nos.41 and 42 of 2016 for various IPC offences. Under such circumstances, the accused are before this Court for quashing the entire prosecution on the short ground that Sathish Kumar is not dead.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

5. Learned Government Advocate (Crl.Side) fairly conceded that Sathish Kumar is alive. The respondent has filed a counter, wherein in Paragraph No.6, it is stated as follows:

"6..... The fact that the victim Satheeshkumar is alive as of now will in no way prevent invoking Section 304(II) as per the statutory requirement."

6. In the considered opinion of this Court, when Sathish Kumar is very much alive, the prosecution of the petitioners for the offence under Section 304(II) IPC is clearly not maintainable inasmuch to establish a charge under Section 304 IPC, death must have ensued.

7. In the result, this petition is allowed and the entire prosecution in P.R.C.No.26 of 2012 on the file of learned Judicial Magistrate No.I, Madurai, in respect of all the accused, including those who are not before this Court is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS I)

/True Copy/

Sub Assistant Registrar



To:

1. The Judicial Magistrate No.I,
Madurai.

2. The Sub Divisional Magistrate-cum-
Revenue Divisional Officer,
Madurai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.Veera Associates, Advocate, SR.58920

+1cc to M/S.B.Chandramohan, Advocate, SR.58756

CrI.O.P. (MD) Nos.3071 and 20768 of 2016
06.06.2017

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