

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.27106 of 2018

and

Cr1.M.P.Nos.15659 and 15660 of 2018

Annadurai

... Petitioner/Accused-10

Vs.

1.State represented by its,
The Inspector of Police,
S-13, Chrompet Police Station,
Chrompet, Chennai - 44.
Crime No.77/2017 ... 1st respondent /Complainant

2.Abdul Khader ... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records comprised in S.C. No.207 of 2017 pending on the file of learned Additional District & Sessions Judge, at Chengalpet and quash the same.

For Petitioner : Mr. Vimal B Crimson

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor for R.1

O R D E R

This petition has been filed to quash the proceedings in S.C. No.207 of 2017, pending on the file of learned Additional District & Sessions Judge, Chengalpet.

2.The petitioner has been added as A-10 in the final report. The only allegation that has been made against the petitioner is that his sharpening machine was used in order to sharpen the knife before the occurrence and Accused 5,6,7 and 8 had used the knife to murder the deceased person.

3.The learned counsel for the petitioner for this purpose read the statements given by L.W.28 and 29 before the police. The learned counsel would submit that this petitioner has been added as an accused only based on the recovery of the sharpening machine under Section 27 of the Indian Evidence Act. According to the learned counsel, there is absolutely no other material to make this petitioner as an accused in this case.

4.The learned Additional Public Prosecutor would submit that charges are yet to be framed in this case and therefore, all these materials will be taken into consideration by the Court below at the time of framing of the charges.

5. In a trial before the Court of Sessions, the prosecution has to open its case under Section 226 of Cr.P.C. and the entire materials will have to be placed before the Court. This Court has to necessarily consider the materials placed before it and see if the offence has been made out against all the accused persons. If the offence is not made out against any of the accused persons, the Sessions Court in exercise of its power under Section 227 of Cr.P.C. can discharge the concerned accused persons. Only thereafter the Sessions Court can proceed to frame the charges under Section 228 of Cr.P.C. against the remaining accused persons.

6.Therefore, in this case, the Sessions Court is yet to apply its mind on the materials placed on record and frame charges. This Court, at this stage does not want to usurp the jurisdiction of the Sessions Court.

7.This petition is disposed of with liberty to the petitioner to raise the issues that have been raised in the Criminal Original Petition, before the Court below and the Court below shall apply its mind on the materials available and take an appropriate decision at the time of framing of charges under Section 228 of Cr.P.C. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

gsp/vsg

To

1. Additional District & Sessions Judge,
Chengalpet.
2. The Inspector of Police,
S-13, Chrompet Police Station,
Chrompet, Chennai - 44.
3. The Public Prosecutor,
High Court, Madras.

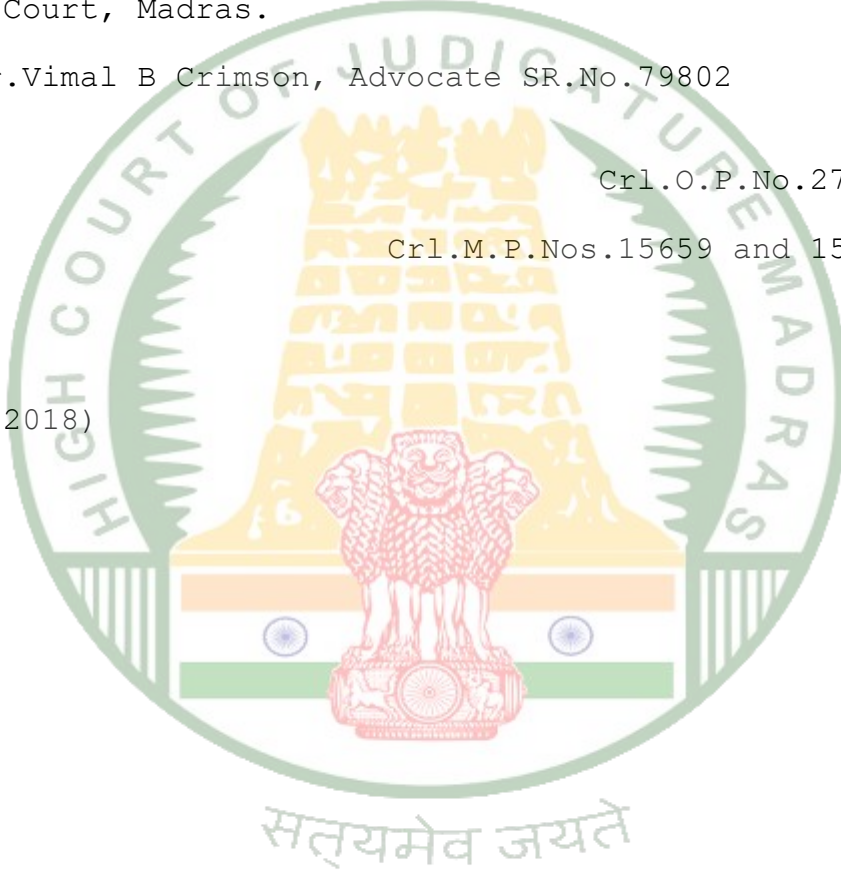
+1cc to Mr.Vimal B Crimson, Advocate SR.No.79802

Crl.O.P.No.27106 of 2018

and

Crl.M.P.Nos.15659 and 15660 of 2018

SK(CO)
GMY(14/12/2018)



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