



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.R.C.(MD)No.39 of 2017

Ramzan Beevi

... Petitioner

Vs.

State through
The Inspector of Police,
C.B.C.I.D. Police,
for Kenikarai Police Station,
Ramanathapuram District.
(Crime No.500/2010)

... Respondent

PRAYER: The Criminal Revision case filed under 397 and 401 Cr.P.C., to call for records of the order dated 05.12.2016 in Crl.M.P.No.514 of 2016 in S.C.No.137 of 2015 on the file of the Additional Sessions Judge, Ramanathapuram (Special Court for Mahila Cases) and set aside the same.

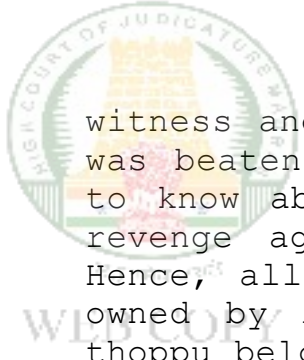
For Petitioner : Mr.M.Anandapadmanaban
For Respondent : Mr.M.Asokan,
Government Advocate (Crl. side)

O R D E R

This Criminal Revision case is filed to set aside the order dated 05.12.2016 in Crl.M.P.No.514 of 2016 in S.C.No.137 of 2015 on the file of the Additional Sessions Judge, Ramanathapuram (Special Court for Mahila Cases). Crl.R.C.No.39 of 2017

2.The petitioner herein is arrayed as one of the accused in the charge sheet filed by the respondent before the Judicial Magistrate No.II, Ramanathapuram. Totally there are 13 accused in this case. The petitioner herein is the close relative of A10, A11 is the mother of the petitioner, A12 is the younger mother-in-law of the petitioner

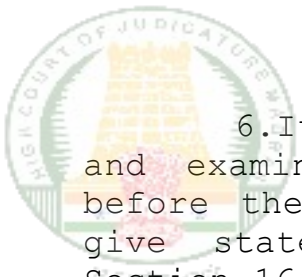
3.The case of the prosecution is that the missing persons Athilabanu and her two children were murdered by A1 and 12 others by hatching a conspiracy with the other accused due to previous enmity between Seenikatti group and Ramali group of Sathankulam Village in respect of murdering one Mohamad Jinna belonging to Seenikatti group on 14.05.2002 in Crime No.500 of 2010 under Sections 147, 148, 323, 324 and 302 IPC in which one Muthusamy, who is the husband of the deceased via., Athilabanu, was eye



witness and he turned hostile during the trial of the case and he was beaten by A1 and his men. When the deceased Athilabanu came to know about the same, she challenged them that she would take revenge against those persons for the assault on her husband. Hence, all the three deceased were kidnapped in a car, which was owned by A1, murdered inside the car and buried in a coconut thoppu belonging to A10 and A11.

4.It is further stated that because of the enmity mentioned above, during the month of November 2010, prior to the occurrence, the petitioner / A11 along with A1, A10 and A12 assembled in the house of A10, hatched a plan with criminal conspiracy to do away the life of Athilabanu and her family members and in consequences to the conspiracy, A1 and other accused committed the triple murder. The part played by the petitioner was revealed by one Papa, whose statement was recorded under Section 164 Cr.P.C. and also spoken by one C.Thangavelu and Mariyammal and hence, the petitioner was charged under Section 120(b) r/w 302 (3 counts). It is stated that non bailable warrants were issued against the absconding accused viz., A1, A2 and A11 and same were sent to CBI, New Delhi Interpol along with read corner notice to secure all the absconding accused to India.

5.It is admitted that the petitioner moved anticipatory bail before the Madurai Bench of Madras High Court in CrI.O.P.(MD) No.1720 of 2014 and this Court by order granted anticipatory bail with the condition that the accused shall appear before the respondent Police. But she never appeared in spite summons. Then the respondent Police filed a petition in M.P.(MD)No.1 of 2014 in CrI.O.P.(MD)No.1720 of 2014 for cancellation of anticipatory bail since the petitioner herein has not complied with the condition of reporting to the respondent Police and this Court directed the petitioner to surrender her passport before the Trial Court with liberty to go abroad with permission of the said Court concerned. As per the said direction of this Court, the petitioner surrendered her passport. The petitioner filed a petition in CrI.O.P.(MD)No.17292 of 2014 to quash the charge sheet against her under Section 482 Cr.P.C. as the specific charge against is that she has participated in the conspiracy by hatching with 4 persons, one week prior to the actual date of occurrence i.e., 08.11.2010. The petitioner remains the entries found in her passport that she had left India on 15.08.2010 and had returned to India only on 12.11.2010. This Court took a view that alibi taken in prosecution case and the same has to be proved and established at the time of trial and the same cannot be evaluated in the quash petition under Section 482 Cr.P.C. and dismissed the said petition with a direction to the Trial Court to proceed with the trial as expeditiously as possible, without giving more than 3 days time for every next hearing.



6. It is admitted that the said Papa, who was arrayed L.W.10 and examined as P.W.4, turned hostile during her examination before the Trial Court and she has stated that she was made to give statement before the learned Judicial Magistrate under Section 164 Cr.P.C. as it was touted by the Police.

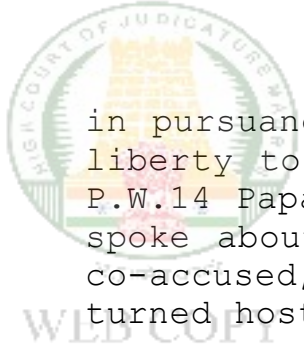
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7. Admittedly, the petitioner is the permanent resident of Singapore and she is an Indian citizen and married Indian and settled at Singapore. She is having properties in India as well as in Singapore. The petitioner seeks permission to go to Singapore for a short period in order to help her husband, who is ailing from heart disease. The petitioner has produced medical certificates of her husband received through e-mail. The husband of the petitioner was admitted as inpatient on 25.02.2015 in a private hospital at Singapore for his ailment and he was discharged on 29.02.2015. As per the medical records produced by the petitioner herein, during that period, angiogram was done to him.

8. The learned counsel for the petitioner contended that bypass surgery has to be done immediately in a hospital at Singapore since he is having several blocks.

9. However, no records were produced to show that the husband of the petitioner ought to be undergone bypass surgery immediately. The petitioner is charged under Section 120(b) and 302 IPC (3 counts) along with her son and her close relatives. The case of the prosecution is that triple murder took place with the help of the petitioner along with her close relatives due to the previous motive with the deceased. This case was handed over to the respondent Police after registration of the case. Most of the witnesses were shown in the charge sheet and they were examined. At present, the case is nearing for completion of the trial. It is also admitted that some of the official witnesses are to be summoned and examined.

10. The husband of the petitioner is having heart ailment and he was done angiogram on 28.05.2015 itself as per the medical records produced by the petitioner. The learned counsel for the petitioner further contended that the husband of the petitioner is having several blocks and only after the petitioner reaching at Singapore, she will get appointment for surgery. Most of the witnesses were examined more particularly, independent witnesses were completely examined. It is also admitted that some of the official witnesses are to be examined. The quash petition filed by the petitioner was dismissed on 21.01.2016 with an observation, ~~directing the Trial Court to conduct the trial on today basis and the case shall not be adjourned beyond 3 working days continuously.~~ The petitioner has surrendered her passport before the Trial Court



in pursuance of the order passed by this Court on 01.09.2014 with liberty to go abroad with the permission of the Court concerned. P.W.14 Papa, who has given her statement under Section 164 Cr.P.C. spoke about the alleged conspiracy between the petitioner and the co-accused, did not support the case of the prosecution as she turned hostile during her evidence before the Trial Court.

11.Considering the facts and circumstances of the case and also the heart ailment of the petitioner's husband at Singapore, this Court is inclined to allow this Criminal Revision case by setting aside the order dated 05.12.2016 passed in Cr.M.P.No.514 of 2016 passed by the learned Additional Sessions Judge, Ramanathapuram (Special Court for Mahila Cases), permitting the petitioner to enable her to go to Singapore for 30 days from the date of departure to assist her husband for his ailment. Hence, the Trial Court is directed to return the original passport belong registration no.K07159911 on the following conditions:

i)The petitioner is directed to submit her travel details with original air tickets from India to Singapore and also from Singapore to India along with authenticated copy of the said tickets, which has to be kept along with the case records after handing over the same to the petitioner.

ii)Date of departure to Singapore should be fixed within a week from the date on which the copy of this order is made ready.

iii)The petitioner should file an affidavit of undertaking that she should stay at Singapore for the given purpose only for 30 days from the date of departure from India.

(iv)The petitioner should be represented through her counsel in examination of other witnesses before the Trial Court and the counsel on record for the petitioner before the Trial Court is directed to file an undertaking affidavit on behalf of the petitioner to that effect.

12.In the result, the Criminal Revision Case is ordered with the above observation.

Sd/-

Assistant Registrar(T&P)

/True Copy/



To

1.The Additional Sessions Judge,
(Special Court for Mahila Cases), Ramanathapuram.

2.The Inspector of Police,
C.B.C.I.D. Police for Kenikarai Police Station,
Ramanathapuram District.

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

+1cc to M/S.M.Anandapadmanaban, Advocate SR.No. 42501

order made in
Crl.R.C. (MD) No.39 of 2017
17.01.2018

nbj

JM/RSK/SAR 4/19.01.2018/5P/5C