

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

Cr1.OP No.31727 of 2012

and

MP.No.1 of 2012

L.Suresh

... Petitioner/Accused

- Vs -

The State

Rep. by The Inspector of Police,

Bagayam Police Station,

Vellore District.

(Crime No.96 of 2005)

... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records in C.C.No.39 of 2007 filed by the respondent and pending on the file of the Judicial Magistrate No.I, Vellore, Vellore District and quash the Charge Sheet as against the petitioner u/s 482 of the Criminal Procedure Code.

For Petitioner : Mr.S.Deivasigamani for V.Madhavan

For Respondent : Ms.T.P.Savitha
Government Advocate (Cr1. Side)

ORDER

This Criminal Original Petition has been filed to call for the entire records in C.C.No.39 of 2007 on the file of the learned Judicial Magistrate No.I, Vellore, Vellore District and quash the same.

2. This petitioner is A4 in C.C.No.39 of 2007 on the file of the learned Judicial Magistrate-I, Vellore, now pending before the learned Judicial Magistrate-II, Vellore as per the transfer order passed by the learned Chief Judicial Magistrate, Vellore. The case was registered against this petitioner and 3 others for the offences under Sections 286, 338 of IPC. After investigation, the respondent police laid a charge sheet against the petitioner and others for the offences under Sections 286, 279. 338, 304(A) and 109 IPC. A1 and A2

filed separate petition before this Court in CrI.OP.No.5180 of 2007 and the case was quashed against A1 and A2. A3 in this case died. This petitioner filed the present petition seeking to quash the proceedings against him.

3. The learned counsel for the petitioner would submit that the complaint was quashed against A1 and A2 by this Court. Therefore, the case against the petitioner may also be quashed.

4. The learned Government Advocate (CrI. Side) appearing for the respondent would submit that though the case against A1 and A2 quashed, there is a specific overtact against this petitioner. Therefore, on par with the other accused/A1 and A2, the overtact attributed against the petitioner cannot be compared with that of the other petitioners. Since the case against A1 and A2 was quashed, he is not entitled to quash automatically. Since there is prima facie case, there is no need to quash the case against this petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) appearing for the respondent and also perused the entire materials available on record.

6. Originally, the case was registered against four persons and after investigation, the respondent police laid a charge sheet for the offences under Sections 286, 279, 338, 304(A) and 109 IPC before the learned Judicial Magistrate-I, Vellore and the same was taken on file in C.C.No.39 of 2007. This petitioner is arrayed as A4. During pendency of the case, the petitioner filed the present petition.

7. On careful reading of the entire materials placed before this Court reveals that there is specific overtact against this petitioner. There is prima facie allegations against this petitioner, due to set firing on the crackers, the accident had happened and therefore, two persons died. Under these circumstances, when there is prima facie allegations and the investigation also reveals that prima facie materials found against the petitioner in the report filed under Section 173 Cr.P.C., this Court is not inclined to invoke Section 482 Cr.P.C and there is no merit in this petition and the same is liable to be dismissed.

8. Accordingly, this Criminal Original Petition is dismissed. The petitioner is at liberty to take all his defence before the learned Magistrate concerned during Trial. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Judicial Magistrate-I,
Vellore.
- 2.The Judicial Magistrate II,
Vellore.
3. -Do- Thro' The Chief Judicial Magistrate,
Vellore.
- 4.The Inspector of Police,
Bagayam Police Station,
Vellore District.
- 5.The Public Prosecutor,
High Court, Madras-104.

+1cc to Mr.V.Madhavan, Advocate Sr.100303

सत्यमेव जयते

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srg 07/01/2020