

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.27295 of 2016
and
Crl.M.P.No.13873 of 2016

Sheik @ Sheik Abdul Kadhar ...Petitioner/Accused No.3

Vs.

1.State rep by
Inspector of Police,
Udumalpet Police Station,
Tiruppur-600012.

2.Rajeshwari ...Respondents/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in P.R.C.No.09 of 2016 on the file of the learned Judicial Magistrate No.I, Udumalpet and quash the same.

For Petitioners : Mr. R.Vijayakumar

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the proceedings in P.R.C.No.09 of 2016, pending on the file of the learned Judicial Magistrate No.I, Udumalpet.

2. The respondent police have filed a Final Report as against 23 accused persons and the petitioner has been ranked as A3. The Final Report has been filed for the offences under sections 120(B), 147, 148, 449, 302 r/w 149, 302 r/w 109/120 (B), 307 (2 counts), 307 r/w 149, 307 r/w 109/120(B) IPC.

3. The learned counsel for the petitioner submitted that there are no materials against the petitioner in order to show him as accused in the Final Report and the entire case is false and foisted against the petitioner. The learned counsel further submitted that the petitioner has been roped only on the ground of conspiracy and there is no material to show that the petitioner was involved in conspiracy along with other accused persons.

4. The learned Government Advocate appearing on behalf of the respondent police submitted that the proceedings are pending at the committal stage only due to the pendency of this petition. The learned counsel further submitted that there is a Non Bailable Warrant pending against the petitioner and the petitioner has not appeared before the Court below. The learned counsel further submitted that there is strong suspicion supported by some materials against the petitioner and the same is enough to frame charges against the petitioner and there is no ground to interfere with the proceedings at this stage.

5. This Court has carefully considered the submissions made on either side and materials available on record.

6. This case was not even admitted by this Court and it is pending from the year 2016 onwards. It is not known as to why the Court below did not proceed further with the case and committed the case before the concerned Sessions Court. That apart there is a Non Bailable Warrant pending against this petitioner due to his non appearance before the committal Court.

7. A reading of the Final Report shows that a serious offence has been committed by the accused persons which ended up in the death of one Bala @ Balasubramaniam and serious injuries were caused to many of the witnesses. In a case of this nature, Court's must be very slow in interfering with the proceedings. This Court does not find any ground to interfere with the proceedings. It is left open to the petitioner to raise all the grounds before the Court below during the course of the proceedings and the same shall be considered by the Court on its own merits and in accordance with law.

8. In the result, this Criminal Original Petition is dismissed and the learned Judicial Magistrate No.I, Udumalpet is directed to immediately commit the case before the concerned

Sessions Court. If the committal Court finds that some of the accused persons are absconding, the Court is directed to split up the case in accordance with the guidelines given by this Court in H.Aarun Basha Vs. State of Tamil Nadu reported in 2019 1 LW CrI.Page No.15. The committal shall be completed within a period of one month from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mpa
To

- 1.The Judicial Magistrate No.I,
Udumalpet.
- 2.-Do- Thro' The Chief Judicial Magistrate,
Thiruppur District.
- 3.The Inspector of Police,
Udumalpet Police Station,
Tiruppur-600012.
- 4.The Public Prosecutor
High Court, Madras.

CRL.OP.No.27295 of 2016
and CrI.M.P.No.13873 of 2016

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