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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.16086 of 2019

and

Crl.M.P.Nos.8037 & 8039 of 2019

Selvam @ Selvaraj

.. Petitioner

Vs.

1.State rep. by

The Inspector of Police,
Trippur Rural Police Station,
Trippur,
Trippur District.

2.P.Nagarajan

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records and quash the Charges in S.C.No.179 of 2016 on the file of the II Additional District and Sessions Court, Tiruppur in respect of the petitioner.

For Petitioner : Mr.A.J.Mohamed Kassim

For Respondents : Mr.M.Mohamed Riyaz (for R1)
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to quash the Charges in S.C.No.179 of 2016 pending on the file of the learned II Additional District and Sessions Judge, Tiruppur.

2.The petitioner before this Court has been arrayed as A1 in the final report. The final report has been filed for an offence under Sections 364, 302, 379 r/w 120(b) and 201 of IPC. Apart from the petitioner, there are seven other accused persons in this case.



3.The learned counsel for the petitioner submitted that the prosecution has not even established the death of the deceased and the entire case is based on the so called extra judicial confession made to LW7 and LW8. The learned counsel further submitted that without establishing the death of the deceased and the fact that the dead body has not been traced till date, the prosecution cannot sustain in the final report and the entire proceedings has to be quashed.

4.The learned Additional Public Prosecutor submitted that at the time of framing of charges, what is necessary is to see whether there is a strong suspicion against the accused person which is based on some materials that is available on record. It is not necessary for the prosecution to produce materials and prove the case beyond the reasonable doubt at the stage of framing of charges. The learned counsel further submitted that the proof regarding the death and the admissibility of the extra judicial confession are all issues which can be decided only during trial and there is absolutely no ground to interfere with the proceedings.

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

6.The issues raised by the learned counsel for the petitioner are all factual in nature and it requires appreciation of evidence. The non availability of the corpus delicti of the deceased by itself is not a ground to quash the final report. The Hon'ble Supreme Court in the judgment of Amit Kapoor vs. Ramesh Chander & Anr. reported in 2012 9 SCC 460 has categorically held that a strong suspicion as against the accused person based on some material, is enough to frame a charge against the accused person and the other relevant factors which are factual in nature can be considered only in the course of trial.

7.The above judgment will squarely apply to the facts of the present case.

8.This Court is not inclined to interfere with the proceedings at this stage and it is left open to the petitioner to raise all the grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law.

9.In the result, this Criminal Original Petition is dismissed and the Court below is directed to complete the proceedings in S.C.No.179 of 2016, on the file of the learned II Additional District and Sessions Court, Tiruppur, within a



period of four months from the date of receipt of the copy of this order. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

vs

To

- 1.The II Additional District and Sessions Court,
Tiruppur.
- 2.The Inspector of Police,
Tiruppur Rural Police Station,
Tiruppur, Tiruppur District.
- 3.The Public Prosecutor,
High Court, Madras.

AD(CO)
CB(20/09/2019)

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and
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