



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Eleventh day of January Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.18986 & 19001 of 2018

PRIYA ... PETITIONER / ACCUSED (RANK NOT KNOWN)
(IN CRL OP(MD)NO.18986/2018)

CHOKKATHAI ...PETITIONER/ACCUSED(RANK NOT KNOWN)
(IN CRL OP(MD)NO.19001/2018)

Vs

1 THE INSPECTOR OF POLICE,
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.5 OF 2016)

2 THE STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR DISTRICT.

... RESPONDENT NO.1 & 2 / COMPLAINANTS
(IN BOTH PETITIONS)

S.R.RADHAKRISHNA RAJA ...PETITIONER/INTERVENE PETITIONER
(IN BOTH PETITIONS)

For Petitioner : Mr.R.GANDHI Advocate
(IN CRL OP(MD)NO.18986/2018)

For Petitioner : Mr.N.MOHIDEEN BASHA Advocate
(IN CRL OP(MD)NO.19001/2018)

For Respondent : Mr.K.SUYAMBULINGA BHARATHI Govt. Advocate
(Crl. Side) (IN CRL OP(MD)NO.18986/2018)

For Respondent : Mr.V.NEELAKANDAN,Additional Public Prosecutor
(Crl. Side) (IN CRL OP(MD)NO.19001/2018)

For Intervener : Mr.S.VEERAKATHIRAVAN,Senior Counsel for
MR.MARIAPPAN, Advocate
(IN BOTH PETITIONS)



ORDER : The Court Made the following order :-

(Orders Reserved on 03.01.2019)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Section 302, of IPC., in Crime No.5 of 2016, on the file of the respondent police, seek anticipatory bail. Initially, the case was registered under Section 174 of Cr.P.C., latter altered into one under Section 302 of IPC. The petitioners are daughter and wife of Late Jeganatha Raja.

2.Crl.O.P(MD)No.18986 of 2018, petitioner Priya M.P.(MD) No.9468 of 2018 - intervener S.R.Radhakrishna Raja. Crl.O.P(MD) No.19001 of 2018, petitioner Chokkathai/ M.P.(MD)No.9465 of 2018 - intervener S.R.Radhakrishna Raja. Crl.M.P.(MD)No.9749 of 2018 intervener R.Manjammal in Crl.O.P(MD)No.18986 of 2018 - dismissed as withdrawn since Manjammal died during pendency of the case.

3. The case of the prosecution is that on a complaint given by Chokkathayee, the wife of the deceased, a case was registered in Crime No.5 of 2018, before the first respondent Police stating that on 02.01.2016, at about 11.00 p.m., when her husband was descending from the stairs, he fell down and sustained injuries. Hearing her scream, the relatives rushed to the spot and took the injured to the hospital, where he was declared dead. Initially, the case was registered by the first respondent Police, for an offence under Section 174 Cr.P.C., and after investigation, filed the report, as 'Action Dropped'. Thereafter, Radhakrishna Raja, brother of deceased Jeganatha Raja, had sought for transfer of investigation and made a representation to the Superintendent of Police and filed a petition before this Court and thereafter, the case was transferred to the second respondent viz., Inspector of Police, District Crime Branch, Virudhunagar District.

4. The learned counsel appearing for the petitioners would submit that S.R.Radhakrishna Raja, the brother of the deceased Jeganatha Raja, had cast doubt on the death of his brother, at the hands of the petitioners and others, due to greed of his property and his brother being an obstacle for the wavered way of immoral life of the petitioner. The petitioners, taking advantage of the the deceased Jeganatharaja love affection towards the grandson, had exploited him and had taken over his entire properties. The petitioners were influential and were attempting to close the case by all means. Hence, only after sustained effort by the brother of the deceased, the case came to be transferred to the file of District Crime Branch.

5. The learned counsel appearing for the intervener would submit that the petitioner in Crl.O.P(Md)No.18986 / 2018 daughter of the deceased was married to Ramkumar and through whom, they have

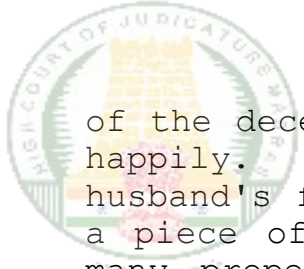


two children viz., Rahul and Ajai. Due to the attitude and behaviour of said Priya, the marriage could not sustain and she got a divorce and thereafter, she was residing with one Sathiyakumar. The deceased Jeganatha Raja was residing separately. Thereafter, on intervention of elders, he had started living jointly with them. Despite living with them, he was not taking food fearing that the food would be poisoned.

6. Continuing further, he would submit that the said Radhakrishna Raja received information about his brother Jeganatha Raja's demise on 02.01.2016 at about 12.30 a.m., immediately he went there and found that the body was 4 to 5 feet away from the stairs, in a pool of blood and wife and daughter of his brother were without any tension, and in casual manner. He was also informed by Rajalinga Raja that on 02.01.2016 at about 8.30 p.m., the deceased was wearing 'Banian' and 'Trouser' and the other relations were informed about the death belatedly. The change of dress from 'Trouser' to 'Lungi' created a doubt. The staircase is only two to three feet and there is no possibility of his brother falling down. The said Sathiyakumar and Priya had a marriage during May 2016. Further, on 01.08.2017, one A.K.Beemaraja informed the brother of the deceased that he facilitated the petitioners to create a forged will of the deceased Jeganatha Raja. On 04.08.2017, the petitioners threatened the intervener not to dispute the Will and intervene in execution of the Will. The petitioner Priya has filed a petition in O.P.No.1 of 2017, before the learned Principal District Judge, Virudhunagar, for probating the 'Will'. The intervenor filed two cases in Crime No.746 of 2017, for the offence under Sections 465, 467, 420, 120(b), 294(b) and 506(ii) of IPC., and Crime No.367 of 2018 for the offence under Sections 448, 294(b), 323 and 307 of IPC., and Section 3 of TNPPDL Act, for damaging his Car. Further, the said Manjammal, mother of the accused had settled her share in favour of grandchildren which the Registrar refused to entertain. Against which, she filed a Writ Petition in W.P.(MD) No.22221 of 2016 and the same was disposed by this Court on 08.02.2017. There has been constant litigation between the petitioners and the defacto complainant.

7. In Crl.O.P.No.18966 of 2018, the petitioner is the daughter of the deceased Jeganatha Raja, legal heir of her father Jeganatha Raja's properties. The defacto complainant, who is her uncle, was claiming share of the property which she refused. Hence, he made a complaint against the petitioner and her mother, foisted cases against them. In one of the case, she was arrested and taken into custody. She married one Ramkumar on 18.06.2017 and from marriage, she has two sons of tender age. Due to non-cordiality, divorce was granted in HMOP No.164 of 2014 by Sub Judge, Srivillipuhur, on 16.03.2015. She was living with her parents and the deceased Jeganatha Raja was very fond of his grandchildren.

8. In Crl.O.P.(MD)No.19001 of 2018, the petitioner is the wife



of the deceased Jeganatha Raja and 34 years before they were living happily. Decade before there was a family partition in her husband's family all not much property was given to him, except for a piece of land. Her husband through his hard work had acquired many properties and was doing real estate business successfully. The defacto complainant wanted a share in the property of her husband through his mother. He was fighting for 1/3rd third share against the Will, dated 11.09.2014. Hence, cases have been foisted against her and her daughter.

9. The learned Government Advocate submitted by filing a status report, initially a case was registered by Rajapalayam South Police Station and final report was filed and closed the case, as 'Action Dropped', on 23.03.2016. The intervener had sent several representations to the Authorities and one such representation was to the Superintendent of Police, Virudhunagar. He had also filed a petition for re-investigation, under Section 482 of Cr.P.C., in CrI.O.P(MD)No.15336 of 2018 and this Court, by order dated 29.08.2018 had ordered the same. In the meanwhile, the Superintendent of Police, vide proceedings dated 17.09.2018 had handed over the investigation to the District Crime Branch. After that, the intervener was examined and other witnesses were examined, queries were sent to Dr.N.Babuji, Senior Civil Surgeon, Government Hospital, Rajapalayam and who had deputed Dr.Megala, Duty Asst.Surgeon, Government Hospital, Rajapalayam, to visit the scene of occurrence on 01.10.2018. They also sent 11 questionnaires and had recorded their statements. It is seen that the injuries sustained by the deceased would have caused by blunt weapons. Further, Doctor Selvaraj, M.D., Forensic Medicine, Madurai Medical College sent Dr.Juliana Jeyanthi, Assistant Professor visited the scene of occurrence on 24.11.2018 in the presence of VAO and to them 29 questionnaires were sent and opinions were obtained that the injuries could have caused by blunt weapons. The death could not be possible due to accidental fall by rolling over the steps having a height of 172 cms. Head and scapula portion of the deceased could not be caused without any corresponding injuries of abrasion. Further, dresses could not be on the body of the deceased as found in the photograph when he is said to have rolling down through the steps. The death was due to homicidal attack as it is evident from the collection of blood below the head and spreading thorough hands and back portion of the body. Thereafter, on 07.12.2018, the said Priya's Husband, Sathiya Kumar S/o.Velayuda Raja was arrested and he had given a confession detailing the occurrence and the complicity of the petitioners wherein he had stated that one Karupaiah Thevar throttled the neck of the deceased Jaganatha Raja, Accused Priya held tightly the hands of the deceased. Sathiyakumar assaulted on heads with iron rod on the left eye-brows of the deceased, the said Ramaraj and Karupaiah kicked forcible on the chest and on the body of Jaganatha Raja. Priya and Chokkathai removed his blue colour trouser and white blood stained baniyan and inserted the lungi on the body of Jaganatha Raja. Further, in the investigation it is found that the petitioners were in the habit of taking liquor had



illegal intimacy with one Ramaraj.

10. This Court heard the submissions made on either side and has perused the statements and materials produced.

11. On perusal of the records it is found that there is no eyewitness to the occurrence and it is a case of circumstantial evidence. From the opinion obtained from the Doctors, the intervener claims that the death is not due to accidental fall but it is a homicidal one. Further, a reading of statements of the Doctors and questionnaires it is found that the doctors had visited the scene of occurrence two years after the occurrence and they have given opinion based on their visit to the scene of occurrence, seeing the photographs and the postmortem report, dated 03.01.2016. It is seen from the postmortem report that what is being now elaborated does not find mention in it. Further, none of the Doctors presently had questioned or found fault with the Postmortem report, dated 03.01.2016, the opinion of the Doctors have to be tested. Further, there seems to be lot of animosity and hatred between the petitioners and the intervener. Substantial portion of investigation has been completed and the petitioners are ladies. Hence, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions;

12. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate, Rajapalayam, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that;

[a] if the petitioners failed to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police, daily at 10.00 a.m., until further orders, for interrogation

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
11/01/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE ,RAJAPALAYAM.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTTUR.
- 3 THE INSPECTOR OF POLICE,
RAJAPALAYAM SOUTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR DISTRICT.

+1. CC to Mr.R.GANDHI Advocate SR.No.869
+1. CC to Mr.G.MARIAPPAN Advocate SR.No.41625
+1. CC to Mr.C.JEGANATHAN, Advocate for Mr.VEERA ASSOCIATES
SR.No.949

PS/PN/SAR-4/23.01.2019/6P/7C

ORDER
IN
CRL OP(MD) No.18986 & 19001 of 2018
Date :11/01/2019