



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.04.2019
Delivered on : 08.07.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P. (MD)No.3167 of 2016
and
Crl.M.P. (MD)No.1604 of 2016

1.Karthigai Selvam
2.Vijay

... Petitioners/Accused

Vs.

1.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.
Crime No.748 of 2012

...1st Respondent/Complainant

2.Prabakaran

... 2nd Respondent/De-Facto Complainant

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in JC.No.25 of 2015 on the file of the Juvenile Justice Board, Madurai and quash the same.

For Petitioners : Mr.G.Karuppasamy Pandian

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor for

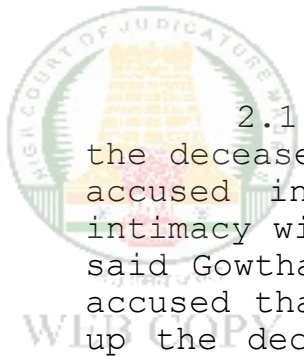
R.1

Mr.K.Chengiz Khan for R.2

ORDER

This Criminal Original Petition has been filed by the petitioners to quash the proceedings pending against them in J.C.No.25 of 2015 on the file of the Juvenile Justice Board, Madurai. Originally, there are four accused in the main case and since the petitioners herein / accused nos. 3 & 4 are juveniles, the case has been split up and they are now facing separate proceedings.

2. The case of the prosecution, in nutshell, is as follows:

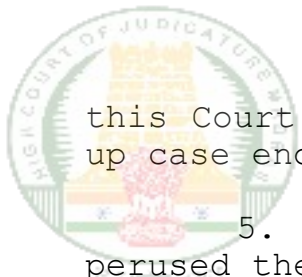


2.1. The first petitioner herein had illicit intimacy with the deceased Mariammal for quite some time and thereafter, the first accused in the parent case, namely, Gowtham, developed illicit intimacy with the deceased. While so, the deceased insisted upon the said Gowtham to marry her and therefore, Gowtham informed the other accused that he is going to kill her. On 01.12.2012, Gowtham picked up the deceased at 08.30 pm in his TVS Sport motorcycle, bearing No.TN-58-AZ-7111 and when they came near K.T.K. Garden Flats, the deceased informed Gowtham about her earlier marriage. Due to this, a dispute arose between the parties and at that time, Gowtham was intimidated by the deceased that if he refuses to marry her, she will foist a false case as if he raped her. Triggered by these words, Gowtham strangled by using the Shawl around her neck and killed her. Thereafter, he poured kerosene on the dead body and set fire, so as to destroy the evidence.

2.2. On the next day, ie., on 02.12.2012, Gowtham informed about the commission of murder to the second accused in the parent case as well as the petitioners herein / juveniles and took them in his motorcycle to the place of occurrence. Since the second accused in the parent case as well as the petitioners herein, with an intention to screen the offender, failed to inform the commission of murder to anybody, charge sheet has been filed as against these persons under Sections 302, 201 & 109 IPC.

3. The learned Counsel for the petitioners would submit that based on the confession statement given by Gowtham, the petitioners herein have been roped-in as accused in the present case. According to the learned Counsel, the petitioners herein have not involved in the commission of murder and there is no iota of evidence as against them for the offence of abatement. Even as per the confession statement of Gowtham, he informed the petitioners herein about the murder and as they did not believe him, he took them in his motorcycle to the place of occurrence. When they came near the occurrence place, they saw the Police and Ambulance and therefore, with an apprehension, they returned without seeing the place. It is clear from the confession that the petitioners have no knowledge about the commission of offence and even before they reach the scene of occurrence, the police got the knowledge and therefore, it is not a case of non-disclosure to screen the offender.

4. The learned Counsel for the petitioners further submitted that the accused nos.1 & 2 in the parent case have been tried in S.C.No.342 of 2014 before the IV Additional Sessions Court, Madurai and the same ended in acquittal on 10.11.2017. The benefit of this acquittal order will also enure in favour of the petitioners and therefore, he prays for allowing the present petition. In support of his contention, he has relied upon the decision reported in **2008 (2) CTC 153**, in the case of **Thamilendi v. State by Inspector of Police, Orathanadu Police Station, Thanjavur District and another**, wherein,



this Court has quashed the proceedings on the ground that the split up case ended in acquittal in favour of the other accused.

5. Heard the learned Counsel appearing on either side and perused the documents placed on record.

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6. On 02.12.2012, the corpse of one Mariammal was found in a half burned stage and a case was registered based on the complaint filed by the second respondent, being the Village Administrative Officer. With regard to the said incident, the first accused in the parent case, namely, Gowtham, reported the second respondent / Village Administrative Officer, who, in turn, has took him before the Revenue Inspector and after recording his confession statement, produced him before the respondent police.

7. Based on the confession statement, the petitioners herein have been roped-in as an accused. Perusal of the confession statement shows that Gowtham has committed the murder on 01.12.2012 and on the very next day, he informed the same to the petitioners herein. As they did not believe his words, Gowtham took them to the place of occurrence. But, on seeing the police party in the place of occurrence, they returned without going there. Other than this, there is no other averment in the confession statement given by Gowtham, based on which, the petitioners herein are roped-in and final report came to be filed.

8. Other than the averment that the petitioners were taken to the occurrence place, there is nothing on record as against the petitioners. Without an iota of material as against the petitioners, they have been implicated in this case. The manner in which the investigation officer has dealt with the case does not satisfy the judicial conscious of this Court and the same has to be depreciated.

9. In addition to the above, it is also brought to the knowledge of this Court that the co-accused in the parent case, who have been tried in S.C.No.342 of 2014, have been acquitted by the learned IV Additional Sessions Judge, Madurai, vide judgment dated 10.11.2017.

10. Under the above circumstances, this Court is inclined to quash the proceedings in J.C.No.25 of 2015 on the file of the Juvenile Justice Board, Madurai and the same is accordingly, quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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To

1.The Inspector of Police,
Thirumangalam Town Police Station,
Madurai District.

2.The Additional Public Prosecutor,
Madurai Bench of Maras High Court,
Madurai.

+1 CC to Mr.G.KARUPPASAMY PANDIAN, Advocate SR-74613.

Order made in
Crl.O.P. (MD)No.3167 of 2016
and
Crl.M.P. (MD)No.1604 of 2016
08.07.2019

CS(24.09.2019) 4P 4C