

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.07.2020

PRONOUNCED ON : 24.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.29427of 2015

and M.P.No.1 of 2015

P.Moorthi ... Petitioner/A5

Vs.

1. State By.

The Inspector of Police,
Puliampatti Police Station,
Erode District,
Crime No.79 of 2015.

2. Kothandaramamurthy ... Respondents/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the FIR in Crime No.79 of 2015 on the file of the respondent police and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.C.Iyyapparaj
Additional Public Prosecutor for R1

O R D E R

The petitioner, A5 in Crime No.79 of 2015 for offences under Sections 342 and 304(ii) IPC has filed this quash petition.

2.(i)The case of the prosecution is that the de facto complainant, who is the administrative officer of Gandhi Polytechnic College, Vinnapalli, Sathyamangalam Taluk, Erode Districts lodged a complaint against the petitioner and five others. From the complaint, it is seen that around 40 boys and 31 girls from North East, Sikkim were studying and staying in the Gandhi Polytechnic College. On 20.03.2015 at about 7.45 p.m., the de facto complainant along with one Munusamy, Canteen

incharge and Rangasamy, Assistant Warden were serving food to the inmates. At that time, there was some commotion near the security gate between the security man and six persons, who are residents of Vinnappali village. They are accused, A1 Ramasamy, A2 Velmurugan, A3 Ponnusamy, A4 Kuppan, A5 Moorthi, the petitioner herein and A6 Paramesh. Apart from Ramasamy, others came in bike and picked quarrel with the college management that three students from the college were roaming in the village in a suspicious manner, when questioned, picked up quarrel with the villagers. One of the student was caught and other twos ran away from the place.

(ii) One of the student Minkur Lapser came to college informed defacto complainant that he along with Arjun Roy and Charan Sharma had gone to the village to meet their classmate one Sarath Mohan. At that time an elderly person, raised some doubt about the students and that the villagers chased them away since the students were not conversant with the local language their explanation were not understood and they were beaten, Charan Sharma was caught and detained by the villagers Minkur Lapser and Arjun Roy ran away from the place. Minkur Lapser ran towards the road and Arjun Roy ran towards the fields to escape from the villagers. Thereafter, on search it was found that Arjun Roy fell in the well sustained head injuries and succumbed to injuries. Thereafter, the body was retrieved from the Well by the Fire and Rescue Service, hence, a complaint came to be lodged against the petitioner and five others named as A1 to A6. The student Minkur Lapser identified the accused who assaulted and chased them, who in the college gate.

3. The contention of the learned counsel for the petitioner is that on going through the F.I.R, it is seen that there is no specific overt act attributed against the petitioner. In fact while the petitioner was returning to his village on his motor bike, the respondent police intercepted him and questioned, about his involvement in the said occurrence and he is falsely arrayed as an accused in this case. The petitioner had not participated in the detention, assault and not chased the students of the Gandhi Polytechnic College. The petitioner was named and identified by the watchman of the college, who is the neighbour of the petitioner, with whom the villagers picked up quarrel. The detained students namely Charan Sharma and Minkur Lapser had neither stated the name of the petitioner nor identified him.

4. The learned counsel for the petitioner further submitted that the case is of the year 2015 and for the past five years, there is no progress in this case. The learned counsel by relying upon catena of decisions of the Hon'ble Apex

Court has stated that the harassment caused due to delay, not only applicable to the proceedings in the Court, it is also applicable the delay in the investigation. In support of the above contention, the following decisions are relied upon :

- (i) Seeta Hemchandra Shashittal and another V. State of Maharashtra and others reported in (2001) 4 SCC 525
- (ii) Ramanand Chaudhary V. State of Bihar and others reported in (2002) 1 SCC 153
- (iii) Mahendra Lal Das Vs. State of Bihar and others reported in (2002) 1 SCC 149
- (iv) P.Ramachandra Rao Vs. State of Karnataka reported in (2002) 4 SCC 578
- (v) Vakil Prasad Singh Vs. State of Bihar reported in (2009) 3 SCC 355
- (vi) Biswanath Prasad Singh Vs State of Bihar reported in 1994 Supp (3) SCC 97
- (vii) S.G.Nain vs. Union of India reported in 1995 Supp (4) Scc 552

5. The learned counsel for the petitioner further submitted that while three students from North-East, Sikkim were roaming in the village at odd hours, the same was questioned by the villagers. Due to misconception and miscommunication wordy quarrel ensued to a fight between them, the students assaulted the villagers, ran away from the place and one of the student fell in the well, sustained head injuries and succumbed to death, the petitioner has no connection to the incident. Assailing all these points, he prays to quash the F.I.R against the petitioner. He further submitted that the hostel inmates of the polytechnic college, are not permitted to come out of the college and roam at odd hours. The administrative officer and the warden had permitted the students to roam at odd hours to cover up their misdeeds, a false complaint has been lodged. Since the petitioner questioned the defacto complainant and others with regard to their misconduct. Thus, the petitioner has been falsely implicated.

6.The learned Additional Public Prosecutor would submit that three innocent students were assaulted by the Villagers. The only bane is that they hail from North-East, Sikkim and got admission in the Gandhi Polytechnic College and pursuing their course, they went to meet one of their classmate viz, Sarath Mohan, at that time the villagers picked quarrel and assaulted

them. One of the student was beaten held captive, other two ran away for life in different directions. He further submitted that one of the student viz., Arjun Roy ran in the dark, fell in the Well, later the other student Minkur Lapser reached the college, informed the incident. Thereafter, the de facto complainant and others went rescued the detained Charan Sharma searched for Arjun Roy, later found him in the Well, who succumbed to head injuries. The Fire and Rescue Service retrieved the body, which was with injuries. He further submitted that student Minkur Lapser indentified A1 to A6 are the persons who attacked and chased them and they are the reason for the death of Arjun Roy.

7. The learned Additional Public Prosecutor further submitted that the points raised by the petitioner would be considered, during the investigation. The petitioner had been identified and he is a named accused in the F.I.R. During investigation, the claim of the petitioner can be considered and as on date, there are sufficient materials to proceed against the petitioner. The medical reports are in conformity with the complaint and also the statement of the witnesses. The delay in investigation occurred due to the misconception and that there was a stay granted by this Court. He further submitted that since the offence is henious one the respondent police would be suitably adviced to give top priority to this case and complete the investigation within a time frame and file charge sheet.

8. The judgments cited by the learned counsel for the petitioner are not applicable to the facts and circumstances of the case. The petitioner is a named accused in the F.I.R, the eye witness Minkur Lapser, as well the watchman and others identified the petitioner and there is no malice in the complaint.

9. Taking into consideration the above facts, the investigation is at the initial stage, this Court is not inclined to entertain this petition and hence, the same is dismissed. The crime number is of the year 2015 and the Inspector of Police, Puliampatti Police Station is directed to complete the investigation within a period of two months from the date of receipt of this order, the Superintendent of Police, Erode shall monitor the investigation. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ms

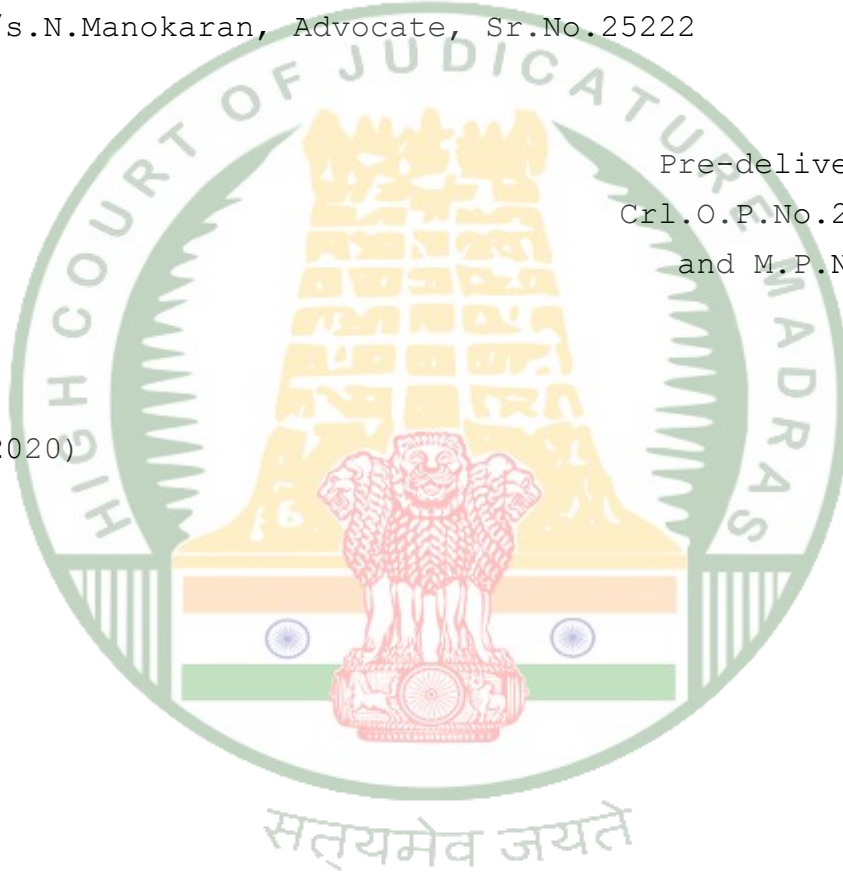
To

1. The Superintendent of Police,
Erode.
2. The Inspector of Police,
Puliampatti Police Station,
Erode District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.N.Manokaran, Advocate, Sr.No.25222

Pre-delivery order in
Crl.O.P.No.29427 of 2015
and M.P.No.1 of 2015

KJ(CO)
GS(12/08/2020)



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