

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.3747 of 2015 and  
CrI.M.P.Nos.1 & 2 of 2015

1.K.M.Ismail

2.Muhammed Eliyas

... Petitioners/Accused

Vs.

State Represented by,  
Inspector of Police,  
T 14, Mangadu Police Station,  
Chennai.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to S.C.No.94 of 2014 on the file of the Additional District & Sessions Judge for Fast Track Court-II, Kancheepuram and quash the same.

For Petitioners: No Appearance

For Respondent : Mr.C.Iyyappa Raj,  
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.C.No.94 of 2014 on the file of the Additional District and Session Judge for Fast Track Court-II, Kancheepuram.

2.When the matter was taken up for hearing on 09.07.2020, there was no representation for the petitioners and directed Registry to post the case on 13.07.2020 under caption 'for dismissal'. Today i.e., on 13.07.2020, no representation for the petitioners.

3.It is seen that the contention of the learned counsel for the petitioners is that LW9, Dr.M.V.Pradeep Anand, Government Hospital, Kilpauk has conducted autopsy on the body of the deceased on 17.09.2013 and given the reason for the death of the deceased is "Died of Coronary Heart Disease". In view of the same, the petitioners cannot be prosecuted under Section 304(ii) IPC.

4.The learned Additional Public Prosecutor appearing for the respondent submitted that initially the case was registered under Section 174 Cr.P.C., later altered to Section 304(ii) IPC after investigation. The petitioners herein are A1 and A2, during investigation, the role played by the petitioners were ascertained and confirmed. In this case, there are totally 11 witnesses, who have stated about the overtacts of the petitioners. The medical records and viscera report are in conformity to the case of the prosecution. He further submitted that the petitioners' defence are to be put forth to the witnesses and decided during trial and not in this petition. Due to the pendency of the above petition, the case in S.C.No.94 of 2014 is without any progress for more than six years and sought for appropriate direction.

5.This Court considering the submissions of the learned Additional Public Prosecutor and perusing the materials finds that the points raised in this petition are to be decided only during trial and not by way of filing a petition under Section 482 Cr.P.C. Hence, the petition is dismissed.

6.Considering the case is pending from the year 2014 without any progress, the trial Court is directed to complete the trial on day to day basis within a stipulated time. There are 11 witnesses in this case and it would be appropriate for the trial Court to complete the trial within a period of four months from the date of lifting down of lock down and commencement of regular Court functioning. Consequently, the connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

vv2

To

1.The Inspector of Police,  
T 14, Mangadu Police Station,  
Chennai.

2.The Public Prosecutor,  
High Court, Madras.

CrI.O.P.No.3747 of 2015

VGI (CO)  
SP(08/10/2020)