

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 29.09.2020

PRONOUNCED ON :08.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.827 of 2020
and Crl.M.P.No.5883 of 2020

Shahul Hameed Petitioner/Accused - 21

(Amended as per the order made in Memo for correction on
23.07.2020)

Vs.

State represented by
The Inspector of Police,
Samalpatti Police Station. Respondent/Complainant

Criminal Revision Petition filed under Section 397 r/w.
481 Cr.P.C. praying to call for the records and set aside the
order passed in Crl.M.P.No.456 of 2020 dated 23.07.2020 in
S.C.No.181 of 2019 on the file of the Hon'ble Additional
District Judge, at Krishnagiri, by allowing the Criminal
Revision.

For Petitioner : Mr.A.Ramesh, Senior Counsel
for Ms.S.Deepika

For Respondent: Mrs.P.Kritika Kamal
Government Advocate
(Crl. Side)

ORDER

This case is taken up through video conferencing.

2. This criminal revision petition has been preferred
seeking to set aside the order passed in Crl.M.P.No.456 of
2020 dated 23.07.2020 in S.C.No.181 of 2019 on the file of the
Additional District Judge, Krishnagiri, by allowing the
Criminal Revision.

3. It is the case of the prosecution that on account of
previous enmity with the deceased Parasuraman, A1 to A21
formed an unlawful assembly armed with deadly weapons on
22.03.2019 around 11.30 hrs and hacked to death Parasuraman

near his house. They also attempted to murder his wife Manimegalai and caused injuries to one Pugalenthir, who came to rescue Parasuraman.

4. On the complaint given by Manimegalai, the Police registered a case in Crime No.51 of 2019 and after completing the investigation, filed a final report before the Judicial Magistrate, Uthangarai, against A1 to A21 and on committal to the Court of Session, the same was taken on file in S.C.No.181 of 2019. Shahul Hameed - A21 filed a petition in CrI.M.P.No.456 of 2020 in S.C.No.181 of 2020, for discharging him from the prosecution, which has been dismissed by the Trial Court on 23.07.2020, aggrieved by which, he has preferred the present revision petition.

5. Heard Mr.A.Ramesh, learned senior counsel on record for Ms.S.Deepika, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (CrI.Side) appearing for the respondent.

6. The law relating to discharging of an accused from a prosecution has been fairly settled in a catena of decisions of the Supreme Court and it would suffice to advert to a recent judgment in the case of "Akbar Hussain Vs. State of Jammu & Kashmir and others" reported in (2018) 16 SCC 85, wherein, the Supreme Court has stated that, even a strong suspicion is enough to frame charge.

7. Mr.A.Ramesh, learned senior counsel submitted that the petitioner was not shown as an accused in the F.I.R. and was taken into illegal custody on 13.04.2019 but was remanded only on 16.04.2019. Off-course, he also fairly brought to the notice of this Court that, apart from the confession statement of a co-accused given to the Police, the statement of one Manivannan (LW-19) alone

implicates the petitioner and nothing else. He contended that the statement of the said Manivannan was recorded by the Police on 15.04.2019 only after the petitioner was arrested and therefore, the said statement becomes suspect.

8. Per contra, the learned Government Advocate (CrI.Side) submitted that the petitioner was not arrested on 13.04.2019 but was arrested only on 15.04.2019 at 3 pm as could be seen from the arrest particulars in the case diary, whereas, the statement of Manivannan was recorded on 15.04.2019 at 9 am. In any event, when the statement of Manivannan clearly implicates the petitioner, there is no scope for discharging him from the prosecution.

9. This Court gave its anxious consideration to the rival submissions.

10. A reading of the statement of Manivannan shows that, after the attack by the other accused, they got into a Scorpio car bearing Registration No.TN-10-U-2772 that was waiting for them and Shahul Hameed (the petitioner herein), was the driver of the car. After the assailants boarded the car, Shahul Hameed drove the car towards Uthangarai.

11. The contention of Mr.A.Ramesh that the petitioner was kept in illegal detention by the Police from 13.04.2019 and was shown arrest only on 15.04.2019, are disputed facts which cannot be gone into in this revision petition. Suffice it to say that, in the teeth of the statement of Manivannan 1(LW-19), implicating the petitioner in the offence, it cannot be stated that there are no prima facie materials to frame charges against him. Absence of the name of the petitioner in the F.I.R. also cannot be a good reason to discharge him from the prosecution. The case of the petitioner does not pass muster the law laid down by the Supreme Court in Akbar Hussain case (supra) for discharging him. In the result, this Criminal Revision Petition is dismissed. Connected criminal miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Additional District Judge,
Krishnagiri.
- 2.The Judicial Magistrate,
Uthangarai.
- 3.Do-Thro'The Chief Judicial Magistrate,
Krishnagiri District.
- 4.The Inspector of Police,
Samalpatti Police Station.
- 5.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Crl.R.C.No.827 of 2020

KK(CO)
CB(03/11/2020)