

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.No.1514 of 2019
and
Crl.M.P.No.19149 of 2019

Alagar @ Anbalagan Petitioner/Accused-1

Vs.

State by S.H.O.
Inspector of Police,
Reddychavadi P.S.,
Crime No.229/2013. Respondent/Complainant

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to calling for the records from the Court of Sessions, Cuddalore Division, Cuddalore in C.M.P.No.1184 of 2019 in S.C.No.18 of 2019 dated 08.11.2019 and set aside the same.

For Petitioner : Mr.R.Ganesan

For Respondent : Mr.K.Prabakar, Addl.Public Prosecutor

O R D E R

The petitioner herein is the first accused before the Court of Sessions, Cuddalore Division, Cuddalore in S.C.No.18 of 2015. The case of the prosecution is that the petitioner entered into a criminal conspiracy with Accused Nos.2 to 6 on 15.11.2013 and in pursuance of the same, Accused Nos.2 to 6 along with Accused Nos.7 to 9, way laid the deceased Kamaraj on 19.11.2013, when the deceased was proceeding towards Cuddalore in a two-wheeler, and he was murdered. The petitioner / A1 was charged for the offences punishable under Sections 120(B) r/w 302 and 109 r/w 302 IPC. Discharge application was filed by the petitioner before the Court of Sessions, Cuddalore Division, Cuddalore to discharge from the charges levelled against him. Taking note of the relevant provisions of the Criminal Procedure Code and also

perusing the materials collected during investigation, the Court of Sessions, dismissed the petition stating that the materials on record prima facie show that the accused persons unlawfully assembled and waylaid the deceased Kamaraj with common intention and caused his death.

2. Aggrieved by the said order, the petitioner has filed the present Criminal Revision Case.

3. The learned counsel for the petitioner has submitted that the learned Trial Judge failed to appreciate that there was no prima facie material available to frame charges against the petitioner. He also submitted that the learned Trial Judge has simply dismissed the petition filed by the revision petitioner without any tangible evidence to prove that there is at least a semblance of evidence against the petitioner to prove that there was previous enmity between the petitioner and the deceased Kamaraj prior to 15.11.2013. Stating so, the learned counsel prayed for setting aside the impugned order.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that the Trial Court has considered the materials available on record in a proper perspective and has passed the impugned order, and hence the same does not require any interference in the hands of this Court.

5. Heard both sides and perused the papers.

6. The learned Trial Judge has referred to the relevant provisions of the Criminal Procedure Code relating to the principles of discharge, which are not in dispute. It is seen that there was a specific accusation against the petitioner and others that they conspired together and planned to eliminate the life of the deceased Kamaraj and further there was an unlawful assembly by the accused persons on the date of occurrence and the deceased was waylaid with common intention and murdered. On conclusion of investigation, charge sheet was filed against the accused 1 to 9 and consequently, cognizance was taken. The learned Trial Judge has rightly observed that the question as to whether the charges have been proved or not can be determined only after the evidence is recorded at the time of trial. The materials on record prima facie showed that the accused persons unlawfully assembled and waylaid the deceased with common intention and caused the death of the deceased. This Court is not inclined to interfere with the impugned order, since the discharge petition was dismissed on the ground that prima facie

case has been made out against the petitioner / A1, upon perusing the materials on record.

7.In the result, the Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

KM

To

1.The Principal Sessions Judge,
Cuddalore Division, Cuddalore.

2.Inspector of Police,
Reddychavadi P.S.

3.The Public Prosecutor,
Madras High Court.

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nr 25/02/2020



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