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CRL.O.P.(MD)NO.5926 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 24.10.2019
PRONOUNCED ON: 20.05.2020
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.5926 of 2015

L.R.D.Ramesh

... Petitioner/L.W.11

Vs.

1. The State rep. by,
The Inspector of Police,
Murappanadu police station,
Thoothukudi District.
(Crime No.285 of 2013)

... Respondent/Complainant

2. P.Pitchai Kannan
3. Daniz
4. M.Prabakaran

... Respondents/Accused Nos.1 to 3

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned II Additional District and Sessions Judge, Thoothukudi, Thoothukudi District to order re-trial of the case in S.C.No.170 of 2014 by calling upon all the witnesses referred to in the charge sheet as L.W.1 to L.W.35 and further direct the said learned Sessions Judge to complete the process of trial and to deliver the final verdict within the stipulated period as prescribed by this Court.

For Petitioner : Mr.R.Anand

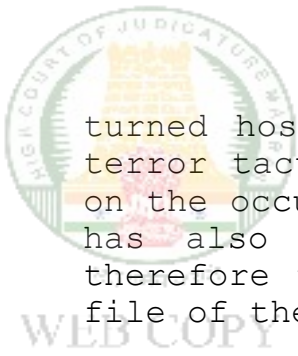
For R-1 : Mr.A.Robinson,
Government Advocate(Crl.Side).

For R-2 : Mr.N.Ananthapadmanabhan

For R-3 & R-4 : Mr.A.Velan,
for Mr.Niranjana S.Kumar
* * *

O R D E R

The petitioner is the brother of one L.R.D.Suresh who was brutally murdered on 10.10.2013 within the campus of Infant Jesus Engineering and Technology College. He was the Principal of the said institution from 12.01.2010. According to the petitioner, his brother in his capacity as a Principal has taken disciplinary action and that was the motive for the occurrence. Even though the occurrence had taken place in broad daylight and in the presence of witnesses and that too in the college campus itself, the witnesses



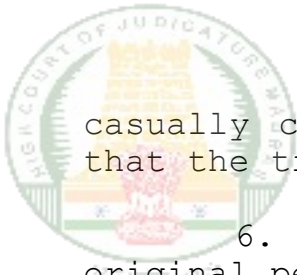
turned hostile during the trial because they became afraid by the terror tactics of the accused. The petitioner would also claim that on the occurrence date, the accused were seen holding weapons and it has also been captured in the college CCTV. The petitioner therefore wanted retrial of the case in S.C.No.170 of 2014 on the file of the II Additional District and Sessions Judge, Thoothukudi.

2. The prayer made by the learned counsel appearing for the petitioner was strongly opposed by the learned counsel appearing for the private respondents.

3. The learned counsel appearing for the private respondents would submit that this Court cannot lose sight of the mandatory provisions with regard to admitting of electronic evidence. He also contended that retrial cannot be ordered as a matter of course. In any event, there has been no complaint from the witnesses that they were criminally intimidated.

4. The first respondent has also filed a status report mentioning that the prosecution has examined 25 witnesses so far and that 6 witnesses have been dispensed with and that the CCTV footage has also been duly marked as M.O.Ex.P.3 through P.W.15 Rajadurai Kannan.

5. The occurrence is most unfortunate and truly tragic. Violence in any form anywhere cannot be condoned, let alone within the campus of an educational institution. In this case, the victim is none other than the Principal of a college. It is true that most of the witnesses have turned hostile. But till date there is no material to show that they were intimidated or threatened by the accused herein. This Court is not in a position to come to such a conclusion on the strength of the materials placed before it. But then, there is considerable merit in the contention of the petitioner's counsel that the CCTV footage is a vital piece of evidence. Even though it was contended that the same has not been marked, a categorical submission has been made by the learned Government Advocate(Crl. Side) based on the instructions of the first respondent that the CCTV footage has actually been marked. If that is so, I am certain that the learned trial Judge will examine it and also ensure that the persons found in the CCTV footage are duly identified. The learned trial Judge is specifically mandated to identify the persons who are figuring in the CCTV footage. I am certain that the learned trial Judge will not give a mechanical disposal to the case on hand. The investigation officer is yet to be examined. It is also open to the prosecution to recall the witnesses who were earlier examined for the purpose of elucidating the contents of the CCTV footage. The learned Public Prosecutor will not dispense with the witnesses if they are material. Since this case involves murder of the Principal of a college, the learned trial Judge will certainly ensure that the prosecution is not



casually conducted. After all the function of justice is to ensure that the truth is unearthed.

6. With these observations and directions, the criminal original petition stands disposed of.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

1. The II Additional District and Sessions Judge,
Thoothukudi, Thoothukudi District.
2. The Inspector of Police,
Murappanadu police station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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