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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.08.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

CrI.OP.No.11344/2016 & CrI.MP.No.5812/2016

[Video Conferencing]

Ramamoorthy

... Petitioner

Versus

1.The State by
The Inspector of Police
Walajapettai Police Station
Vellore District.

2.C.Karunakaran

3.State by the Deputy Superintendent of Police,
Ranipet Sub Division
Vellore District.

... Respondent

(R3 impleaded as per order of this Court
dated 04.07.2016 in CrI.MP.No.7058/2016
in CrI.OP.No.11344/16)

Prayer : - Criminal Original Petition filed under Section 482 of Cr.P.C., calling for the records of PRC No.10/2015 on the file of the learned Judicial Magistrate No.2, Walajapettai and quash the same as against the petitioner herein whose name has been shown as accused No.11 in the above PRC No.10/2015.

For Petitioner : Mr.K.Desingh

For RR 1 & 3 : Mr.Suganthan
Government Advocate [CrI.Side] for
Public Prosecutor

ORDER

- (1) It is a very unfortunate case where the First Information Report [FIR] which had been lodged on 04.02.2011 for alleged offences under Sections 147, 148, 294[b], 323, 324, 434, 435, 447 and 506[ii] of IPC read with section 3[x] of the Prohibition of Atrocities against Scheduled Caste and



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Scheduled Tribes Act, had not progressed to its logical conclusion. The investigation had progressed and a Final Report had been filed before the learned Judicial Magistrate No.2, Walajapet. Thereafter, owing to the present Criminal Original Petition filed by the petitioner herein / A-11, stay had been granted, the matter has not even been committed to the Court of Sessions for trial. The accused have not appeared. There is a right for speedy trial by the accused. But, when stay is granted for such a lengthy period of five years, then the very purpose of such rule of law is defeated.

- (2) The Hon'ble Supreme Court of India in Neeharika Infrastructure Pvt Ltd Vs State of Maharashtra and Others, had given very strong guidelines with respect to interference by the High Courts in petitions filed under Section 482 of Cr.P.C., to quash proceedings. The said judgment had been reported in 2021 SCC Online SC 315. It had been stated that the Court should not thwart any investigation into cognizable offences and that the power of quashing should be exercised very sparingly and with circumspection. It had also been stated that the Court cannot also embark on an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or in the complaint.
- (3) The learned counsel for the petitioner stated that the name of the petitioner / A-11 was not mentioned in the FIR. It is the case of the complainant himself, according to the learned counsel that two days prior to the incident, the petitioner herein/A-11 along with the other accused, had a wordy quarrel with the defacto complainant / injured person. The learned counsel however, pointed out that on the date of occurrence on 04.12.2015, the presence of the petitioner was not mentioned by the defacto complainant. It is, therefore, stated that the Investigating Officer with an oblique motive had arrayed the present petitioner as A-11 even in the absence of any material as against the present petitioner herein.
- (4) However, this statement is controverted by Mr.Suganthan, learned Government Advocate [Crl.Side] representing the learned Public Prosecutor, who stated that the offences attracted even the provisions under the SC/ST Act and therefore pointed out that trial is the only answer to determine the role of the accused in the offences. At this stage, only statements of the witnesses are alone available and the case has not yet been committed to the Court of Sessions. The charges have not yet been framed. There is no reason why the petitioner could not advance the very



same arguments now presented before this Court at the time of framing charges and insist upon the Court to discharge him.

- (5) I am not entering into any discussion on merits. But, at this stage of the proceedings, it would only be advisable that the matter is left to the discretion of the particular Court where the trial is to take place and where charges are to be framed to determine the role of the petitioner herein. As far as the Final Report is concerned, the Investigating Officer has his reasons for arraying the present petitioner as an accused and that can be tested only during the course of trial and the Investigating Officer can very well be cross examined as to the reason why the present petitioner had been arrayed as an accused. Interference at this stage, is not warranted.
- (6) I should express regret that the matter has been pending before the High Court for more than five years without any hearing also. Let the matter be reverted back to the learned Judicial Magistrate No.2, Walajapet and let committal proceedings proceed further and let the case proceed further in accordance with law.
- (7) With the above observations, the criminal original petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

- 1.The Judicial Magistrate No.2,
Walajapet.
- 2.The Inspector of Police,
Walajapettai Police Station,
Vellore District.
- 3.The Deputy Superintendent of Police,
Ranipet Sub Division,
Vellore District.



4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Ramesh, Advocate Sr No.42806

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Cr1.OP.No.11344/2016

KV (CO)
PR (15/09/2021)