



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Twenty Ninth day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3441 of 2021

IN

CRL OP(MD) No.5973 of 2021

1 VIGNESH

2 CHANDRA PRAKASH

... PETITIONERS/PETITIONERS

Vs

1.STATE THROUGH

THE INSPECTOR OF POLICE,
SIVAGIRI POLICE STATION,
TIRUNELVELI DISTRICT.

(CRIME NO.398 OF 2020).

... 1st RESPONDENT/1st RESPONDENT

2 SEENISAMY

... 2nd RESPONDENT/2nd RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Dispense with the personal appearance of the Petitioners in S.C No. 229/2021 on the file of the 1st Additional District and Sessions Judge, Tirunelveli till the disposal of the quash Petition.

Prayer in CRL OP(MD). 5973/ 2021 :

To Admit this Quash Petition on file and to call for the records in S.C No. 229/2021 on the file of the 1st Additional District and Sessions Judge, Tirunelveli ands quash the same against this Petitioner.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.KATHIRVELU, Senior counsel for Mr.K.PRABHU, Advocate for the petitioners and of Mr.R.SRINIVASAN, Government Advocate(Crl. Side) on behalf of the 1st Respondent, the Court made the following order:-

The main Petition has been filed to quash the proceedings in S.C.No.229 of 2021 on the file of the 1st Additional District and Sessions Judge, Tirunelveli insofar as these petitioners are concerned.



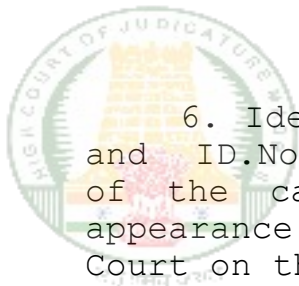
2.The case of the prosecution:-

The petitioners are arrayed as accused No.1 & 2 in the above said case. They are facing charges under Sections 294 (b), 302 r/w 34 and 506(ii) of IPC. On 06.09.2020, the defacto complainant, by name Seenisamy along with his brother Saravanakumar were standing near by brother's farm in Rayagiri main road and at that time, four persons including the petitioners came in two wheelers and parked their vehicles on the road side. When the identity were questioned by said Saravanakumar, trouble arose between them. The petitioners herein, pushed down the said Saravanakumar. The fourth accused kicked him and the third accused attacked him with stone in his head. The said Saravanakumar sustained injuries. On hearing the noise of said Saravanakumar, Seenisamy and one Muthiah Pandiyan came to the place of occurrence and on seeing them, all the accused persons, fled away from the place of occurrence. The injured was taken to the Sumathi Hospital, Sivagiri and thereafter, for further treatment, he was admitted in Vellammal Medical College Hospital, Madurai. After taking treatment of one week, the injured died in the hospital. So, the case, which was registered originally under Sections 294(b), 323, 324 & 506 (ii) of IPC. After the death of injured, the same was altered into Section 302 of IPC.

3. Based upon the First Information Report, investigation was undertaken. Statement of the witnesses were recorded. Even as per the contents of the First Information Report and the statement recorded during investigation shows that these petitioners have attacked the deceased with hands. Only due of the surgical wound death caused. So, the petitioners are no way responsible for the offence of murder. The first petitioner is doing fourth year B.Arch course in Karpagam University, Pollachi Main Road, Coimbatore District. The second petitioner doing second year B.Tech course in Kalasalingam University, Srivilliputtur (Via), Virudhunagar District.

4. Heard both sides.

5. When the matter came up for hearing, the learned Senior Counsel for the petitioners would submit that even as per the contention of the First Information Report as well as the statement recorded during the course of investigation, does not reveal that these petitioners caused the death of the deceased. But, however, he has submitted that without going to the merits of the case, he confined his relief only with regard to the dispense with the personal appearance before the Trial Court since both of them are students of University. The first petitioner is student of Karpagam University, Pollachi Main Road, Coimbatore District. The second petitioner is the student of Kalasalingam University, Srivilliputtur (Via), Virudhunagar District. He also produced the Identity Cards issued by the concerned University.



6. Identity Cards of the petitioners reads that ID.No.17RBAR045 and ID.No.9919009010 respectively. So, without going to the merits of the case, I am of the considered view that the personal appearance of the petitioners is dispensed with before the Trial Court on the following conditions:-

WEB COPY The petitioners are directed to appear before the Trial Court within 15 days from the date of receipt of a copy of this order and file an undertaking affidavit that they will appear before the Trial Court as and when required by affixing their photographs duly attested by their respective counsel in the affidavit.

sd/-
29/04/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE 1st ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.
- 2.THE INSPECTOR OF POLICE,
SIVAGIRI POLICE STATION,
TIRUNELVELI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.3441 of 2021
IN
CRL OP(MD) No.5973 of 2021
Date :29/04/2021

dss
AE/MNR/SAR-II/07.06.2021/2P/4C