



Crl.O.P.No.1771 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.1771 of 2016

and

Crl.M.P.No.857 of 2016

Panneer Selvam

... Petitioner/A-1

Vs.

1.State rep. By

The Assistant Commissioner of Police,
Mylapore Range,
Mylapore, Chennai – 4.

2.The Inspector of Police,

J-4, Kotturpuram Police Station,
Chennai.

(Crime No.3788 of 2014)

3.M.S.Balamurugan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, prayed to call for records in the charge sheet in P.R.C.No.119 of 2015 on the file of learned IX Metropolitan Magistrate, Saidapet in Crime No.3788 of 2014 pending on the file of the 2nd respondent and quash the same.



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Crl.O.P.No.1771 of 2016

For Petitioners : Mr.P.Venkatraman
for Mr.S.Sivakumar
For Respondents 1 & 2 : Mr.L.Baskaran
Government Advocate(Crl.Side)
For Respondent-3 : Mr.P.Kumar

ORDER

This petition has been filed to quash the charge sheet in P.R.C.No.119 of 2015 on the file of learned IX Metropolitan Magistrate, Saidapet in Crime No.3788 of 2014 pending on the file of the 2nd respondent.

2. The petitioner/Accused No.1 in P.R.C.No.119 of 2015 for the offence under Section 399 I.P.C. altered into Sections 307, 399, 120(B) r/w 34 I.P.C., has filed this quash petition.

3. The case of the prosecution is that the third respondent/de-facto complainant lodged a complaint stating that on 15.11.2014 at about 6.00 p.m. five persons came in a Xylo car bearing registration No.TN 55 Y 9657, parked their vehicle near the canal. They were speaking in a husky voice, which created suspicion. Immediately he rushed to the police station and narrated the facts. The second respondent police went to the occurrence place, at that time, one of the persons escaped from the spot in a bike and



Crl.O.P.No.1771 of 2016

others brought to the police station. During enquiry, it revealed that they are hireling, hired by the petitioner/A-1 to eliminate L.W.16-Robert Ravi, who is the co-brother of petitioner's son. The dispute was that the petitioner's son, namely, David married Robert Ravi's sister-in-law, namely, Subha. David and his father doing business and there was a misunderstanding in the business. Added to it, on 23.01.2013 the said David died in suspicious circumstances. His wife Subha was compelled to live with petitioner's family. At that time, she faced some harassment, later she informed her sister Vedha and her husband Robert Ravi about the same. They brought her to Chennai, gave protection and she was living with her children, which offended the petitioner. Hence, the petitioner engaged the hireling, viz., Accused Nos.2 to 6. These facts revealed during investigation and the petitioner arrayed as Accused No.1. After completion of investigation, charge sheet filed in P.R.C. No.119 of 2015 before the learned IX Metropolitan Magistrate, Saidapet.

4. Learned counsel for the petitioner submitted that initially a case has been filed for the offence under Section 399 I.P.C. and later it has been altered to Sections 307, 399, 120(B) r/w 34 I.P.C. The petitioner has got nothing to do with the other accused. The petitioner has been falsely



Crl.O.P.No.1771 of 2016

implicated in this case. Further from the statement of witnesses and the materials collected, no case under Section 307 I.P.C. is made out. There is no seizure of weapon. Further it is submitted that the petitioner was not present on the day, when the other accused were apprehended. There is some dispute between the petitioner and his daughter-in-law with regard to the custody of the children, which is the motive, for which, the petitioner has been falsely implicated in the above case. Further, the petitioner's daughter-in-law, Subha filed a direction petition before this Court in Crl.O.P.No.31429 of 2014 seeking transfer of investigation and this Court by order dated 01.12.2014, disposed of the same. In the said petition, new allegations against the petitioner made, which is magnified and petitioner falsely implicated in this case.

5. Learned counsel appearing for the third respondent/de-facto complainant submitted that four persons were apprehended on 15.11.2014 finding that they were moving in a suspicious manner. The respondent Police during interrogation of these suspects came to know about the involvement of the petitioner engaging these hireling to eliminate one Robert Ravi, Co-brother of petitioner's son David. Further, the other accused have confessed about the petitioner. The hireling had no reason to be present in



Crl.O.P.No.1771 of 2016

Kotturpuram on the date of occurrence. They all hail from Ramanathapuram District. Further, the family members of Subha constantly threatened, abused by the petitioner. Hence, seeking police protection and transfer of investigation, petitioner's daughter-in-law approached this Court and this Court considering the threat and apprehension to be real, granted police protection, transfer of investigation and also directed the Assistant Commissioner of Police, Mylapore to investigate the case. After investigation, charge sheet filed, P.R.C., committed to the Sessions Court in S.C.No.82 of 2017, which is pending trial before the XIX Additional Judge. Since the accused absconded themselves, the trial is yet to commence.

6. Learned Government Advocate (Crl. Side) appearing for the respondents 1 & 2 submitted that the de-facto complainant/informant in this case is a vendor, who is having a shop in Kotturpuram, finding Xylo car parked near the canal side, finding movement of persons inside the car suspicious, they were enquired, one of the accused escaped from the scene. Thereafter, others were brought to the police station and a case registered. During interrogation, their role, motivation revealed that they were engaged by the petitioner/A-1 to eliminate L.W.16-Robert Ravi and his family members. Further, filed a counter, in which paragraph 13 and 14 stated about



Crl.O.P.No.1771 of 2016

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the involvement of the petitioner and engaging of hireling.

"13. It is submitted that the overt act attributed the petitioner/A-1 is that he is misbehaved with his daughter-in-law, i.e., victim girl, Tmt Subha, while her husband is alive and the same was came to know by his son Tr.David, made quarreled with his father/pettoner, but unfortunately the petitioner's son Tr. David died due to accident. Even thereafter also the petitioner misbehaved with the victim girl, which was not accepted by the victim girl, she went to her sister's residence located in Chennai and with her brother-in-law's help, she got Teacher Job in Chennai and residing separately in Bharathi Nagar, Kotturpuram, Chennai along with her daughter. The petitioner in order to take revenge on his daughter-in-law's sister husband viz., Robert Ravi to cause of death, engaged the 6 accused persons, Le, A-2 to A-6. Hence the petitioner herein has played key role for committing the said offence colluded with other accused A-2 to A-6.

14. It is submitted that there are evidences very much available in the records to show the involvement of petitioners actively engaged A2 to A7 to do away the said Mr.Robert Ravi at Adayar. Prima-facie materials are available to frame charges against the accused and the same were revealed during my investigation. Further, the common intention and conspiracy done by the petitioner/ accused would be established during trial by the prosecution."

7. He further submitted that on the directions of this Court in Crl.O.P.No.31429 of 2014, investigation got transferred to Assistant Commissioner of Police, Mylapore Range, who conducted detailed investigation, examined witnesses, filed charge sheet listing witnesses L.W.1 to L.W.29 and documents. P.R.C.No.119 of 2015 kept pending before the



CrI.O.P.No.1771 of 2016

committal Court for quite some time. In the year 2017, the case was committed to the Sessions Court in S.C.No.82 of 2017. The trial in this case is yet to commence, since the accused absconded and dragging on the proceedings.

8. The trial Court on 21.09.2022, recorded the proceedings, in S.C.No.82 of 2017 as follows:

"A2, A3, A4, A5, A7 NBW pending, A6 – Death Certificate – Accused called Absent No representation. Issue NBW against A1. Call on 27.10.2022."

He further submitted that NBW is pending against the petitioner and soon to be executed.

9. Considering the submissions and on a perusal of materials, it is seen that the victim in this case, approached this Court seeking police protection and proper investigation. Thereafter, on the directions of this Court, investigation was transferred to Assistant Commissioner of Police, Mylapore Range, who conducted investigation, examined witnesses and filed charge sheet in this case. The offence had taken place in the year 2014, charge sheet filed in the year 2015, committal completed in the year 2017 and till date, the trial is yet to commence due to the non co-operation of the accused and dilatory tactics adopted by them. The points raised by the



Crl.O.P.No.1771 of 2016

petitioner are factual. Further, there are witnesses, who have spoken about the overt act of the petitioner. The veracity of the same to be tested and decided during trial and not in the quash petition. In view of the same, this Court is not inclined to entertain this petition. Hence, this Criminal Original Petition is dismissed.

10. The Trial Court is directed to take appropriate coercive measure in securing the accused. The trial Court is directed to give preference and proceed with the trial without any delay. It is made clear that, if any dilatory tactics is adopted by the petitioner as well as other accused, the trial Court shall take coercive action against the accused persons including to keep them in confinement following the decision of the Hon'ble Supreme Court in the case of ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*** and conclude the trial within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

13.10.2022

Index : Yes/No

Internet : Yes/No

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Crl.O.P.No.1771 of 2016

To
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Mylapore, Chennai – 4.
- 2.The Inspector of Police,
J-4, Kotturpuram Police Station,
Chennai.
- 3.The IX Metropolitan Magistrate,
Saidapet.
4. The Public Prosecutor,
High Court, Madras



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Crl.O.P.No.1771 of 2016

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