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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Cr1.O.P.No.17544 of 2019
and
Cr1.M.P.No.8864 of 2019

1.B.Sivakumar

2.B.Perumal

3.R.Kannan Pillai

...Petitioners/Accused 4 to 6

Vs.

1. State represented by
Inspector of Police
D.Nagar Police Station
Puducherry District.
Crime No.93 of 2014.

...Respondent/Complainant

2. Lebernath Thangaraj

...Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, praying to call for the records relating in C.C.No.638 of 2019 on the file of the learned Judicial Magistrate No.I, Puducherry and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.M.Guruprasad

For Respondents : Mr.V.Balamurugane for R1
Additional Public Prosecutor
(Puducherry)

: Mrs.P.V.Rajeswari for R2

ORDER

This petition has been filed to call for the records relating to C.C.No.638 of 2019 on the file of the learned Judicial Magistrate No.I, Puducherry and quash the same by allowing this Criminal Original Petition.



2. On 20.04.2022, the learned Counsel for the Petitioners submitted his arguments and the case was posted on 26.04.2022, to hear the learned Counsel for the second Respondent/Defacto complainant. On 26.04.2022 this Court had passed the following order:

"When the case came up for hearing in an earlier occasion i.e., on 20.04.2022, the learned Counsel for the second Respondent/Defacto complainant submitted her arguments. In continuation of the same, the case was posted to 26.04.2022.

2. Today (26.04.2022), when the case is taken up for hearing as Item No.11, the learned Counsel for the second Respondent/Defacto complainant submitted that she wants to clarify regarding the death of A1 and A2.

3. Therefore, the Registry is directed to call for remarks from the Court of the learned Judicial Magistrate No.I, Puducherry and also from the Inspector of Police, D.Nagar Police Station, Puducherry District regarding the death of the Complainant in Crime No.93 of 2014 and A1 and A2 as per the charge sheet.

Call on 28.04.2022."

3. Today, when the case came up for hearing as Item No.15 in the cause-list, remarks has not yet been received to clarify regarding the death of A1 and A2. The learned Counsel for the second Respondent/Defacto complainant filed a memo stating that the second Respondent/Defacto complainant died.

4. The Counsel attached to the Office of the Public Prosecutor (Puducherry) submitted that during investigation, it is found that Accused Nos.1 and 2 died. Further final report was filed against the Accused Nos.1 and 2. He also submitted that the second Respondent/Defacto complainant also died.

5. The learned Counsel for the second Respondent/Defacto complainant vehemently objected to quash the case in C.C.No.638 of 2019 on the ground that the legal heirs of the Defacto complainant can be examined as witnesses before the trial Court as the Complainant died.

6. In the light of the fact that though the Accused Nos.1 and 2 died on the date of filing of the charge sheet as well as the Defacto complainant, the learned Judicial Magistrate No.I, Puducherry shall proceed with the trial with the witnesses produced by the Prosecution and dispose of the case, without



being influenced by the observation made in the course of the order. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is also closed.

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Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Judicial Magistrate No.I,
Puducherry.
2. Do Thro The Chief Judicial Magistrate,
Puducherry.
3. The Inspector of Police
D.Nagar Police Station
Puducherry District.
Crime No.93 of 2014.
4. The Public Prosecutor
High Court, Madras.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.30395

+1cc to Mr.P.V.Rajeswari, Advocate, S.R.No.30828

Crl.O.P.No.17544 of 2019
and
Crl.M.P.No.8864 of 2019

PVS (CO)
RGA (27/05/2022)