



CrI.O.P.No.18566 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2022

CORAM

THE HON'BLE **Dr.JUSTICE G.JAYACHANDRAN**

CrI.O.P.No.18566 of 2019

and

CrI.M.P.Nos.9419 & 11370 of 2019

1.R.Prem Anand
2.R.Ashok Anand @ Saravanan
3.S.Ramachandran
4.R.V.Kanchana

... Petitioners

Vs.

1.State Rep.by
The Inspector of Police,
Hasthampatti Police Station,
Salem City.
Crime No.785 of 2014

2.S.Usharani

... Respondents

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for the records relating to the criminal case in S.C.No.66 of 2017 on the file of the III Additional District and Sessions Court, Salem, quash the same on the basis of the Memorandum of compromise dated 05.07.2019.

For Petitioners : Mr.Manoharan N.

For R1 : Mr.R.Kishore Kumar



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Government Advocate (Crl.Side)

For R2 : No appearance

ORDER

This Criminal Original Petition is filed to quash the criminal case pending against these petitioners who are arrayed as A1 to A4.

2. Reading of the Final Report, this Court finds that a physical altercation has taken place on 14.12.2014 due to property dispute between the descendant of one Varadharajulu who had two wives. In the said fight, Sridharan, the husband of the *de facto* complainant sustained injury and taken to the hospital for treatment, but he was declared dead. The Doctor, who has conducted the post-mortem, has opined that the death is due to coronary artery heart disease which indicates that the deceased already had medical history of heart ailment. The case has been registered against these petitioners and the Sessions Court has taken cognizance of the offence and framed charge under Section 302 I.P.C.

3. Based on the medical report, the petitioners herein claim



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that the charge framed against them has basically no material evidence and therefore, they must be discharged from the charge under Section 302 I.P.C. Once they are exonerated from offence under Section 302 I.P.C., nothing survives in the complaint and the criminal complaint has to be quashed.

4. Though the submissions made by the learned counsel for the petitioner is substantially supported by the documents and the evidence relied upon by the prosecution, this Court has to sparingly exercise its jurisdiction under Section 482 Cr.P.C., in a matter of quashing the criminal complaint, as mandated by the Hon'ble Supreme Court in *Bajanlal* case and the cases followed thereafter. The High Court cannot substitute its opinion on the evidence which is yet to be tested on merits before the trial Court.

5. Hence without any observation about the merit of the material placed and relied upon by the prosecution, the quash petition is dismissed with liberty to the petitioners/accused to impeach the



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prosecution evidence by way of cross examination or prosecute the same by letting in plausible evidence assisting the evidence. Summarily, deciding case of this nature is not in consonance with law as well as the dictum of Hon'ble Supreme Court. For that reasons, this Court is to dismiss the quash petition.

6. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

10.11.2022

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Index: Yes/No

Speaking Order/Non Speaking Order

To

1.The III Additional District and Sessions Court, Salem.

2.The Inspector of Police,
Hasthampatti Police Station,
Salem City.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

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Dr.G.JAYACHANDRAN, J.

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