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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL. O.P. NO.29102 OF 2017
AND
CRL.M.P.NOS.16441 & 16442 OF 2017

K.S.Ravi
S/o.Subramaniam ...Petitioner

Vs.

State represented by,
The Inspector of Police,
D-3, Guduvanchery Police Station,
Kanchipuram District.
Crime No.1265 of 2013. ...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in pertaining to the Final Report filed in P.R.C.No.21 of 2014 before the learned Judicial Magistrate No.II, Chengalpattu and quash the same as far as the Petitioner is concerned.

For Petitioner : Mr.V.Karthikeyan
for Mr.M.Sathishkumar

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the final report filed against the petitioner, who is arrayed as A8 for the offences under Sections 120(B), 147, 148,341, 342, 302 and 149 I.P.C. and 5(a) of Indian Explosive Substance Act.

2. The crux of the prosecution case is that A1 and others have attempted to murder one Mari and Gunasekaran. The said Gunasekaran is the cousin brother of Sampath erstwhile Panchayat President of Perumattunallur, who has hatched conspiracy for his death in the present case. Similarly, it is the case of the prosecution, during the civic polls, A1 supported one K.S.Ravi and it added fuel to the flame. Subash is the son of Sundar, who is the driver of Sampath (since deceased). Subash and Kathir of

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Perumattunalur were at loggerheads over a love affair. The said Subash was done to death by A1 and his associates. Sambath since deceased supported Subash and his family. As the Sampath had been defeated in the civic body election, wherein enmity between both the groups grew more. A2 is relative of A1, A3 is the brother of A1, A4, A5, A6, A7 are friends of A1. A8 is the present Panchayat President of Perumattunallur. A1 to A3 hatched conspiracy, and on the next day, they have met A8, who has intensified to kill the deceased Sampath. A8 entered into a further criminal conspiracy with A1 and also provided a sum of Rs.50,000/- to A1 to eliminate Sampath. In pursuant to the conspiracy, on 18.12.2013 A1, A3, A4, and A5 came to the house of A2 and A6 brought two JCL viz., Sathiya and Sagadevan, all joined together and all of them entered into the house and hatched further conspiracy. Thereafter, on 19.12.2013, all of them formed unlawful assembly and attacked the deceased indiscriminately in front of minor daughter.

3. It is the contention of the learned counsel appearing for petitioner that the present petitioner, who was arrayed as A8 has not been implicated by the defacto complainant, viz., the only eye witness of the minor daughter of the deceased. It is his further contention that only allegation against A5 that he has given a sum of Rs.50,000/- to A1 and there are no materials unearthed by the investigating officer to establish the alleged conspiracy of A8 with others. Therefore, the proceedings against him, which is now pending in P.R.C.No.21 of 2013 has to be quashed. It is also stated by the learned counsel appearing for the petitioner that even during the anticipatory bail petition, no materials forthcoming before this Court, which has been recorded by this Court. Hence, he would submit that the entire prosecution against A8 is motivated due to election rivalry. Therefore, he has sought to quash the final report against A8.

4. It is contention of the learned counsel appearing for State that there are materials against the petitioner for hatching conspiracy with other accused. Hence, he strongly opposed this petition.

5. Heard both Counsels.

6. Though it is the contention of the learned counsel appearing for petitioner that there is no direct evidence as against the petitioner to prove the conspiracy, this Court is of the view that such contention has no force in the eye of law. The conspiracy normally hatched in secrecy. There cannot be any eye-witnesses and the conspiracy could be established by various circumstances forthcoming during trial. Therefore, merely on the ground that there is no direct eye witness, the entire proceedings against the present petitioner cannot be quashed.

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His further contention is that the eye witness or defacto complainant has not implicated A8 at the first instance, which has no relevance at all. It is normal prudence of any person to implicate the person, who physically attacked the deceased. It is highly impossible for any human-being to identify the conspirator at that stage. Therefore, merely because, A8 is not figured in the F.I.R. or any statement under Section 164 Cr.P.C. recorded from minor eye witness, who is a witness, it cannot be held that entire prosecution has to be quashed. As the allegation appears to be serious in nature, and there are prima facie materials available, at this stage, the prosecution cannot be quashed. It is to be noted that the entire accusation is of serious in nature for doing away the person by cutting indiscriminately, besides using explosive substances, and the trial some way or other stopped all these days by filing these type of petitions and so far as the trial against others was also stopped, this Court is of the view that this petition is nothing but to delay the sessions trial. Hence, this Criminal Original Petition is liable to be dismissed. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

rpp/gd

To

1.The Judicial Magistrate No.II,
Chengalpattu.

2.The Inspector of Police,
D-3, Guduvanchery Police Station,
Kanchipuram District.

3.The Public Prosecutor,
High Court, Madras.

Crl.O.P. No.29102 of 2017

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