



CRL.O.P (MD) No.14792 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 18.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.14792 of 2022

and

CrI.M.P(MD)Nos.9620 and 9622 of 2022

Kumaran @ Muthukumaran

...Petitioner/Accused No.5

Vs.

1.The State represented through
The Inspector of Police,
Keelavalavu Police Station,
Melur,
Madurai District.
(In Crime No.196 of 2016)

...1st Respondent/Complainant

2.Mannan

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., praying to call for the records pertaining to P.R.C.No.15 of 2018 on the file of the Judicial Magistrate, Melur and to quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.V.Santhakumaresan

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



CRL.O.P (MD) No.14792 of 2022

ORDER

This petition has been filed to quash the proceedings in P.R.C.No.15 of 2018 pending on the file of the learned Judicial Magistrate, Melur insofar as the petitioner is concerned.

2.The learned counsel appearing for the petitioner submitted that the petitioner is the 5th accused in P.R.C.No.15 of 2018 pending on the file of the learned Judicial Magistrate, Melur. There are many contradictions in the 161 statement of witnesses and apart from that, the allegation against the petitioner is that the petitioner along with other accused persons waylaid the defacto complainant and forcibly kidnapped him and robbed a sum of Rs.3 lakhs from the defacto complainant at the point of knife, which is unbelievable. He further submitted that no confession was recorded and no recovery was made from the petitioner and only on the basis of confession given by the co-accused, the petitioner was implicated in this case. Hence, he prays for quashing the said proceedings.

3.The learned Additional Public Prosecutor appearing for the respondent police submitted that in this case, A4 died and for non-appearance of A7, Non Bailable Warrant has been issued against him and remaining A1, A2, A6 have been appeared. This petitioner is arrayed as A5 and the allegation against the



CRL.O.P (MD) No.14792 of 2022

petitioner and other accused is being a serious nature and before the commencement of trial, the proceedings cannot be quashed. Hence, the learned Additional Public Prosecutor prays for dismissal of the petition.

4. I have considered the submission of the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

5. A perusal of records shows that the petitioner is the 5th accused in P.R.C.No.15 of 2018 pending on the file of the learned Judicial Magistrate, Melur. The petitioner along with other accused prosecuted by the respondent police for the offences punishable under Sections 363 and 397 of IPC. Now the case is pending for committal. At this stage, the accused No.4 died and for non-appearance of accused No.7, Non Bailable Warrant has been issued against him. Remaining accused persons A1, A2 and A6 have appeared and this petitioner is arrayed as Accused No.5 and want of securing the accused, the case is not committed to the Sessions Court for trial. The learned counsel appearing for the petitioner disputed about the involvement of this petitioner with this crime on the ground that there is no material to connect the petitioner in this case, apart from the confession of the co-accused. The learned counsel for the petitioner is disputing the factual positions and citing



CRL.O.P (MD) No.14792 of 2022

contradictions relating to the confession of co-accused. Disputed fact cannot be adjudicated in quashing the proceedings and it has to be decided by let in evidence. Therefore, before the commencement of trial, the proceedings cannot be quashed. Hence, I find no merits in this case.

6. At this juncture, the learned counsel for the petitioner submitted that the personal appearance of the petitioner may be dispensed with before the trial Court. Considering his request, the personal appearance of the petitioner before the trial Court is dispensed with on condition that the petitioner should be appear before the trial Court, whenever his present is required by the learned Judicial Magistrate.

7. Accordingly, this Criminal Original Petition stands dismissed. Consequently connected miscellaneous petitions are also closed.

18.08.2022

Index : Yes / No
Internet : Yes/ No
vsd



WEB COPY



CRL.O.P (MD) No.14792 of 2022

To

- 1.The Inspector of Police,
Keelavalavu Police Station,
Melur,
Madurai District.
- 2.Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.O.P (MD) No.14792 of 2022

V.SIVAGNANAM, J.

vsd

CRL.O.P (MD) No.14792 of 2022
and
Crl.M.P(MD)Nos.9620 and 9622 of 2022

18.08.2022