



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.18985 of 2021

and

Crl.M.P.(MD).No.10562 of 2021

K.Kalanjiam

... Petitioner/Accused No.4

Vs.

1.State rep by

The Inspector of Police,
Nachiyarpuram Police Station,
Thirupathur Taluk,
Sivagangai District.
In Crime No.29 of 2021

... 1st Respondent/Complainant

2.Chidambaram

... 2nd Respondent/Defacto-Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.29 of 2021 on the file of the first respondesnt dated 31.03.20212 and quash the same as illegal with regard to the petitioner alone.

For Petitioner	:	Mr.N.Ananthapadmanabhan for M/S.APN Law Associates
For R1	:	Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor
For R2	:	Mr.D.Senthil Kumar

ORDER

Heard the learned counsel for the petitioner and learned Additional Government Pleader for the first respondent and learned counsel for the defacto complainant.

2.According to the prosecution, the petitioner is figuring as the fourth accused in Crime No.29 of 2021 registered on the file of Nachiyapuram Police Station for the offence under Section 436 of IPC to quash the case insofar as he is concerned, this criminal original petition has been filed.

3.The learned Counsel for the petitioner reiterated all the contentions set out in the memorandum of the ground and called upon this Court to quash the impugned proceedings.

4.Per contra, the learned counsel for the defacto complainant submits that on 31.03.2021, the mill belonging to the defacto complainant was set fire and as a result, articles worth around ten



lakhs got damaged. Based on the said complaint, an FIR was registered. Of course, in the FIR itself, the petitioner has named four persons as suspects. The petitioner is figuring as the fourth accused.

5. When the matter was taken on the last occasion, it was claimed that the CCTV footage indicates the involvement of the petitioner but when the CCTV footage was seen, the petitioner could not be identified. Some other person is seen moving around suspiciously during the relevant time.

6. The learned counsel for the defacto complainant submits that the petitioner has been harassing the defacto complainant in variety of ways and as a result, a few cases has been registered as against the petitioner herein. I am not concerned with the merits of the allegations made against the petitioner in the other cases. The only point for consideration is whether the impugned case deserves to be quashed as far as the petitioner is concerned. The defacto complainant stated that the investigation is over and that the final report can very well be filed. Since such a categorical statement made by the defacto complainant's counsel, I called upon the learned Additional Public Prosecutor to inform the Court as regards the materials implicating the petitioner herein. It is stated that the petitioner has been implicated in the confession statement of the co-accused. I wanted to know if there is any other material apart from the confession statement. The clear answer given by the learned Additional Public Prosecutor is that apart from the confession statement there is no other material. If that be so, the chance of the petitioner getting convicted is not just bleak but zero. A Court can look into to the confession statement of the co-accused only for the purpose of lending assurance. It cannot constitute a substantive evidence. Since the investigation is over and the only material available against the petitioner is the confession statement of one of the accused, the impugned proceedings are quashed as far as the petitioner is concerned. I make it clear that the FIR does not stand quashed. It is only the petitioner who has been granted relief from the impugned prosecution. The Criminal Original Petition is allowed on these terms. Consequently, the connected Miscellaneous Petition is closed.

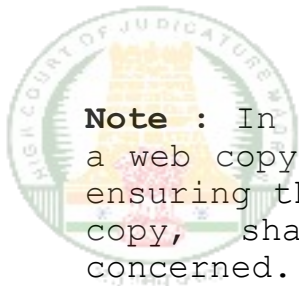
Sd/-

Assistant Registrar (T & P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To

- 1.The Inspector of Police,
Nachiyarpuram Police Station,
Thirupathur Taluk,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-4093[F] dated 03/02/2022)

CrI.O.P. (MD) No.18985 of 2021
01.02.2022

RS (01.03.2022) 3P-4C