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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.19847 of 2018

and

Crl.MP(MD)Nos.9089 and 9090 of 2018

Rajesh Khanna

: Petitioner/A5

Vs.

Ramaiah

: Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in SC No.398 of 2015 on the file of the IV Additional Sessions Judge, Madurai and quash the same as against the petitioner.

For Petitioner

: Mr.N.Ananthapadmanabhan

For M/s.APN Law Associates

For Respondent

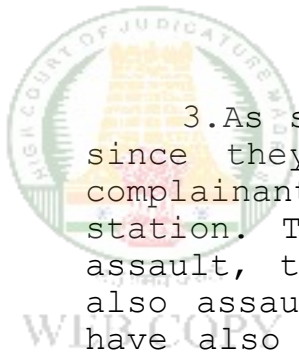
: Mr.D.Sasikumar

O R D E R

This petition has been filed seeking quashment of the case in SC No.398 of 2015 on the file of the IV Additional Sessions Judge, Madurai.

2.The case of the prosecution in brief:-

The respondent herein filed a private complaint before the trial court stating that on 13/07/2009 during night hours, a neighbour by name S.R.Murugan informed him that his wife was murdered by Krishnan, Mahalingam, Ravi and Murugan. He immediately reached the house, on 14/07/2019 at about 5.00 am. During the course of investigation, police enquired the accused persons and also the neighbours on the occurrence night. 4 children were sleeping in the house and is two sons namely Ganesan and Udhakumar, who witnessed the occurrence, but they did not say anything out of fear. Thereafter, they told him that all the accused persons trespassed into the house and killed her. Even though the first preliminary investigation has been properly done, at the intervention of Kasinathan with the connivance of the Sub Inspector of Police Rajesh Kanna, he was falsely implicated in the murder case.



3.As stated above, the complainant did not speak to the child, since they were under fear. After the ceremony of his wife, complainant along with one Sangaiyan went to Kallikudi Police station. There, they have been beaten. On hearing the above said assault, the mother-in-law came to the police station and she was also assaulted by the Sub Inspector of Police Rajesh Khanna. They have also criminally intimidated them and extorted the jewellery. In the police station, all the accused persons gave bribe to the Sub Inspector Rajesh Khanna and the Inspector Kalai Kathiravan. Totally Rs.1.70 lakhs has been extorted from the relatives of the respondent. So the police officials have suppressed and concocted the murder as if it was done by the accused persons. So, with these allegations, they filed a private complaint.

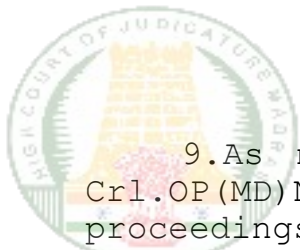
4.Seeking quashment of the above said case, this petition came to be filed by the petitioner/A5 on the ground that the co-accused namely Kalai Kathiravan moved a petition in Crl.OP(MD)No.4756 of 2016 and that came to be allowed by this court, by order, dated 24/09/2018. Against which, SLP preferred and that was also dismissed. The earlier application that was moved by this petitioner before this court in Crl.OP(MD)No.5961 of 2016 was dismissed as withdrawn. Now due to quashment of the criminal case against the co-accused, this second petition came to be filed, seeking the very same relief.

5.Heard both sides.

6.The case of the respondent is that as mentioned above, this petitioner along with the co-accused by name Kalai Kathiravan wrongly implicated due to motive in the murder of his wife and the real offenders are the respondent herein and his relatives.

7.Now the allegation against this petitioner is that he joined hands with the Kalai Kathiravan, who was the Investigating Officer in the murder case, fabricating false documents and created evidence in order to free the accused. Now the case has been tried by the Assistant Sessions Judge, Madurai, in which the relatives of the complainant is facing trial.

8.The contention that have been raised by the respondent in the private complaint have to be agitated only before the trial court, where the murder case against the relatives of the respondent is pending and if at all, he can also file a petition for simultaneous trial. But so far, no such steps have been taken. So now this court cannot go into the factual aspects in respect of the above said murder case. Any observation if made in this case may affect the trial process and influence the proceedings also. So we cannot go into the above said murder case on the short premise that the petitioner was also assisting the above said Kalai Kathiravan during the course of investigation and fabrication of evidence and



9.As mentioned above, the above said Kalai Kathiravan filed Crl.OP(MD)No.4756 of 2016 seeking quashment of the criminal proceedings against him. That petition came to be allowed on 24/09/2018 on the ground that section 197 Cr.P.C squarely applicable to the allegation that has been made against the above said Kalai Kathiravan. So the entire process is liable to be quashed.

10.On the earlier occasion, this petitioner also moved a similar petition before this court in Cr.OP(MD)No.5961 of 2016 and that was dismissed by this court giving liberty to the petitioner to take the defence before the concerned court. But however, his personal appearance was dispensed with before the trial court. That order was passed on 20/04/2016 and the petition that was filed by Kalai Kathiravan was allowed on 24/09/2018.

11.As stated above, according to the petitioner, in view of the change of circumstances, the second petition is maintainable. So without going into the fact, whether section 197 Cr.P.C will apply to the petitioner, this petition can be disposed of on the short premise.

12.As mentioned earlier, the main allegation against the petitioner is that he assisted the Kalai Kathiravan in fabricating the false evidence. When the proceedings against the Kalai Kathiravan has been quashed by this court, then the charge against this petitioner will not also stand scrutiny by the trial court. So on that ground, this criminal original petition is liable to be allowed.

13.In the result, this criminal original petition stands **allowed**. The entire proceedings in SC No.398 of 2015 pending on the file of the IV Additional Sessions Judge, Madurai, is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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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.



To
The IV Additional Sessions Judge,
Madurai.

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24/02/2022

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