



Crl.O.P No.15377 of ----

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.03.2023**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P. No.15377 of 2021
and Crl.M.P. No.8410 of 2021

Muhammed Ashik

... Petitioner / Accused-4

Vs.

1. State represented by
Inspector of Police,
Mailam Police Station,
Villupuram District.
(Cr. No.547/2018)

2. Thiruvengadam

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the entire records pursuant to the case in P.R.C. No.10 of 2019 on the file of Judicial Magistrate No.II, Tindivanam and quash the same for petitioner concern by allowing this Criminal Original Petition.

For Petitioner : Mr.K.Sudhakar
For Respondent 1 : Mr.A.Gopinath
Government Advocate
R2 : No appearance



ORDER

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This Criminal Original Petition has been filed to call for the records in P.R.C. No.10 of 2019 on the file of Judicial Magistrate – II, Tindivanam and quash the same as against the petitioner.

2. The petitioner is the fourth accused in this case. As per the case of the prosecution, the accused 1 to 4 conspired between themselves and in consequent thereof, on 20.10.2018 at about 10.25 p.m., the accused 1 and 2 went to Kooteripattu - Alagramam road near Sozhiyasorgunam bus stop in the motor cycle belonging to the fourth accused bearing No. TN 31-AR-3685 driven by the second accused and the first accused travelled as a pillion driver with a knife. The second respondent / *de facto* complainant who was the salesman of the TASMACH shop nearby had travelled in his two wheeler bearing Reg.No.TN-32-AX-0669 with the sales collection of Rs.1,95,000/- and L.W.2, a police constable of Mailam Police Station escorted him by following in an another vehicle bearing Reg.No.PY 05-B-1235. When they were proceeding to the place of occurrence, the accused 1 and 2 attacked the L.W.2 with the knife on his left forehead and inflicted cut injuries and due to



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which L.W.2 lost his balance and fell down from the vehicle. Thereafter the first accused attacked him over his left palm and they continued to chase the *de facto* complainant and intercepted him and threatened by showing the knife and also attacked him over his right forehead and below his right eye. Thereafter, the accused 1 and 2 have stolen away the sale collection of Rs.1,95,000/- kept by the *de facto* complainant in his vehicle and thereafter the accused shared the stolen amount at the rate of Rs.1,00,000/- to the first accused Rs.75,000/- to the second accused and Rs.10,000/- to each of third and fourth accused. On the above allegations a case has been filed against the accused in Cr. No.547/2018 for the offence under Section 394 IPC. After investigation, charge sheet has been filed against the accused and the accused 1 and 2 are charged for the offences under Section 394, 120B, 341, 397 IPC and the accused 3 and 4 are charged for the offences under Section 394, 120B, 411 IPC and the case has been taken on file by the learned Judicial Magistrate – II, Tindivanam in P.R.C.No.10 of 2019.

3. The learned counsel for the petitioner submitted that there are no materials to show that the petitioner who is the fourth accused was present at the place of occurrence; except the weak evidence of confession given by a co-



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accused nothing is available on record to show that the fourth accused had involved in the crime or he had enjoyed a share of crime proceeds as alleged by the prosecution; without any solid materials to make out any cognizable offence against the petitioner, he has been falsely implicated in this case and hence the proceedings against the petitioner should be quashed.

4. The learned Government Advocate (Crl.side) submitted that the vehicle which was used for the occurrence itself belonged to the fourth accused and the confession of the co-accused shows the involvement of the fourth accused in committing the offence; the crime proceeds were also shared between the accused 1 to 4 and thus the fourth accused also received a share in the stolen property; since the fourth accused had also played a vital role in lending his vehicle to accused 1 and 2 for the purpose of committing the offence of robbery, charge sheet has been rightly filed against the fourth accused.

5. Even according to the petitioner, the vehicle bearing TN-31-AR-3685 in which the first and second accused have travelled on the alleged day of occurrence and committed the offence belongs to the petitioner. Though the



petitioner was not present at the place of occurrence his act of lending the vehicle to the accused would *prima facie* show his involvement in the commission of crime. Only when the accused is subjected to the process of trial and the witnesses are examined, it will come to light whether the evidence available on record including the evidence of the Investigation Officer would prove the allegations of conspiracy between the accused 1 to 4. As of now there are materials available on record including the confession given by the fourth accused and the vehicle involved in the accident belongs to the fourth accused. So it cannot be said that the petitioner has been implicated in this case without any ground material or on the ground of mere suspicion. Hence, I do not find it is a fit case to be quashed by invoking the powers of this Court under Section 482 Cr.P.C.

6. In view of the above stated reasons, this Criminal Original Petition is dismissed. It is made clear that the above stated facts are only for the purpose of disposing this petition. Connected miscellaneous petition is closed.

01.03.2023

Index : Yes/No
Speaking Order : Yes / No
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R.N.MANJULA, J.,

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To:

1. The Judicial Magistrate No.II, Tindivanam.
2. The Inspector of Police,
Mailam Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

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