



Crl.R.C.No.1552 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2023

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.R.C.No.1552 of 2022
and
Crl.M.P.No.18810 of 2022

Gandhi

... Petitioner

Vs.

State by
The Inspector of Police,
B-7 Police Station,
Kaveripattinam,
Krishnagiri Taluk & District.
Crime No.896/2020

... Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records relating to order dated 26.09.2022 passed in Crl.M.P.No.366 of 2022 in S.C.No.23 of 2022 on the file of the Sessions Judge Fast Track Mahila Court, Krishnagiri, set aside the same.

For Petitioner

: Mr.K.Selvarangam
for M/s.P.Mani



Crl.R.C.No.1552 of 2022

For Respondent : Mr.V.Meganathan
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is filed challenging the order passed by the learned Sessions Judge Fast Track Mahila Court, Krishnagiri in Crl.M.P.No.366 of 2022 in S.C.No.23 of 2022 dated 26.09.2022.

2. According to the prosecution, the petitioner/accused had developed illegal intimacy with the deceased Malar. The accused had serious doubt about the behaviour of the deceased Malar and hence the accused with an intention to cause death of the victim Malar, on 01.07.2020 at about 10.00 p.m., when the victim Malar was returning home near Manemadikottai Road, the accused attacked her with broken bottle on the head and killed her. With this narration of facts, the accused was charged for offence under Section 302 of IPC.

3. The learned counsel for the petitioner/accused contended that the respondent police prosecuted the petitioner/accused for having committed a murder of one Malar, committed an offence under Section 302 I.P.C. Before



Crl.R.C.No.1552 of 2022

the Trial Court, the petitioner filed a petition in Crl.M.P.No.366 of 2022 under Section 227 of Cr.P.C., to discharge him from the said charge. Further, he contended that there is no eye witness to the occurrence and the prosecution relied upon the circumstantial evidence. Further, they projected the last seen theory. The prosecution witnesses have seen the accused along with the deceased on 01.07.2020 at about 9.30 p.m., per contra, the accused stated that he was admitted in the hospital on 01.07.2020 and was discharged from the hospital only on the next day at 2.30 p.m. Under these circumstances, the last seen theory projected by the prosecution has no value and unsustainable dehorning the last seen theory. There is no evidence to connect the accused in this case. Hence seeking to discharge him from the case.

4. The learned Government Advocate (Crl. Side) for the respondent submitted that apart from this last seen theory, there are other prosecution evidences and circumstances against this accused and further contended that this accused had an illicit relationship with the deceased Malar during the



Crl.R.C.No.1552 of 2022

life time of her husband. Further, the accused gave a confession statement in pursuant to the said confession, Material Object has been recovered by the Investigating Officer and other incriminating materials have also been produced by the prosecution. Therefore, the circumvent against the accused has to be tested during the trial alone. Therefore, it is inappropriate to discharge the accused based on the discharge summary and thus, pleaded to dismiss the revision case.

5. I have considered the submission made by the learned counsel for the petitioner/accused as well as the learned Government Advocate (Crl.Side) for the respondent and perused the materials on record.

6. On a perusal of the records, it reveals that the respondent police registered a case in Crime No.896 of 2020, on a complaint given by one VEDIAMMAL, mother-in-law of the deceased MALAR. In pursuant to the complaint, investigation has been conducted and found the petitioner guilty based on the prosecution statement and witnesses. On the date of occurrence



Crl.R.C.No.1552 of 2022

viz. on 01.07.2020 at about 10.00 p.m., the accused was seen along with the deceased Malar by the prosecution witnesses and the deceased was found dead on the very next day at 8.00 a.m. The accused was arrested and gave a voluntary confession. In pursuance to the confession, material object has been seized by the Investigating Officer. I have considered the discharge summary relied upon by the petitioner/accused to show that he was admitted in Government Community Health Centre, Kaveripattinam. On a perusal of the discharge summary, it is seen that the petitioner was admitted on 01.07.2020 and discharged on 02.07.2020 at 2.30 p.m.

7. This evidence and the trustworthiness of the discharge summary have to be considered at the time of trial by examining the doctor, who issued the discharge summary. Apart from this, there are other circumstantial evidences projected by the prosecution i.e., the previous illicit connection of the petitioner/accused with the deceased and continuation of illicit connection with the deceased and the confession statement of the accused in pursuance to the confession, recovery, facts and evidence of Investigating



Crl.R.C.No.1552 of 2022

Officer all have to be tested during the trial. It is settled law of principle by the Hon'ble Supreme Court of India, while framing a charge, the Court has to see and analyse the materials on record to find out any *prima facie* case is made out to prosecute the person. The trial Court on a perusal of the materials produced by the prosecution, found *prima facie* case against the accused to proceed against him and dismissed the petition.

8. I find no illegality or infirmity in dismissing the order and no merit in the revision case. Hence, this Criminal Revision Case is dismissed. Consequently, the connected Criminal Miscellaneous Petition is also dismissed. Any observation made by this Court will not bind on the trial Court. The Trial Court shall decide the case on its own merits and in accordance with law.

24.01.2023

rpl

To

1.The Sessions Judge Fast Track Mahila Court, Krishnagiri

6 of 8



Crl.R.C.No.1552 of 2022

WEB COPY

2.The Inspector of Police,
B-7 Police Station,
Kaveripattinam,
Krishnagiri Taluk & District.

3.The Public Prosecutor,
High Court of Madras,
Chennai-104.



WEB COPY



CrI.R.C.No.1552 of 2022

V.SIVAGNANAM, J.,

rpl

CrI.R.C.No.1552 of 2022

24.01.2023