



Crl.O.P No.30420 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.02.2023**

CORAM:

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.30420 of 2019
and Crl.M.P. Nos.16487 & 16118 of 2019

S.Balu

... Petitioner

Vs.

1. The State represented by
The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
(Cr. No.350 of 2019)

2. Gayathri

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the Impugned FIR in Crime No.350 of 2019 on the file of the first respondent police and quash the same in so far as it relates to the petitioner is concerned.

For Petitioners : Mr.J.T.Ajitha
for Mr.K.Govi Ganesan

For Respondent-1 : Mr. A.Gopinath
Government Advocate (crl.side)

R2 : Not ready in notice



ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records in Cr. No.350 of 2015 on the file of the first respondent and quash the same.

2. The petitioner is the third accused in the complaint given by the second respondent by alleging that on 06.08.2019 at about 7 p.m., her husband Iyyanar went to the fields for his practical purposes. Since he did not return even after a long time, the second respondent asked her brother-in-law to search him. Then they came to know that the second respondent's husband had got electrocuted and died in the lands of the accused who have electrocuted the fence in order to check pig menace. Since the petitioners have electrocuted the land knowingly that it is dangerous to human life, the complaint has been given. On the basis of the above allegation a case has been registered in Cr. No.350 of 2019 for the offences under Section 304(2) IPC.

3. The learned counsel for the petitioner / third accused submitted that the petitioner has got nothing to do with the occurrence as alleged by the prosecution and he is the lessee of the adjacent land bearing Survey



Nos.59/2, 59/3; the petitioner/ third accused has got lease hold right over the above said land from the original owner Purushothaman Naicker; the land in which the occurrence had taken place is situated beyond 100 fts. from the place of occurrence; the petitioner has been implicated in this case without any basis and hence the FIR against him should be quashed.

4. The learned Government Advocate (Crl.side) submitted that the third petitioner was in occupation of the said lands and as on the date when the accident took place, he was in charge of the lands in Survey No.60/2; even though the learned counsel for the petitioner asserts that the third accused is the lessee only in respect of lands in Survey No.59/2 and 59/3, the prosecution also asserts that the petitioner was a lessee of the land in Survey No.60/2.

5. Since the investigation is at the threshold stage, if the first respondent is allowed to continue the investigation by calling for the relevant records from the concerned parties, it can be ascertained whether the petitioner is or not the lessee of the lands in S.No.60/2 also. In case the petitioner is not the lessee of the lands in Survey No.60/2 and he has got no



connection to the said lands and the activities done thereon, it is obligatory on the part of the first respondent to drop the proceedings against him. But the factual matrix brought before the Court by both the learned counsel for the petitioner and the learned Government Advocate cannot be ventured by this Court without conducting a proper investigation. However, I feel it is appropriate to direct the first respondent to complete the investigation within a period of four weeks from the date of receipt of a copy of this order.

6. Accordingly this Criminal Original Petition is disposed with a direction to the first respondent to complete the investigation and file final report in Cr. No.350/2019 within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to produce the lease deeds before the Investigation Officer at the time of enquiry. Connected miscellaneous petitions are closed.

23.02.2023

Index : Yes/No
Speaking Order : Yes / No
bkn



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To:

1. The Inspector of Police,
Kandamangalam Police Station,
Villupuram District.
2. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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