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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28/03/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.5190 of 2023

and

Cr1.MP(MD)Nos.4592 and 4593 of 2023

Daniel Savirour : Petitioner/A5

Vs.

1.State represented
Inspector of Police,
Thatchanallur Police Station,
Tirunelveli city,
(Crime No.897 of 2012) : R1/Complainant

2.Ramasamy : R2/De-facto complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in PRC No.356 of 2022 on the file of the Judicial Magistrate No.IV, Tirunelveli and quash the same in respect of the petitioner is concerned and pass such further or other orders.

For Petitioner : Mr.T.A.Ebenezer

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition has been filed seeking quashment of PRC No.356 of 2022 on the file of the Judicial Magistrate No.IV, Tirunelveli.

2.The facts in brief:-

Some 10 years prior to the present occurrence, one Raja was murdered by the de-facto complainant and A1-Muthusamy. The above said Raja is the friend of A1 herein, who is dead now. As a retaliation to the above said murder of Raja, the accused persons conspired to kill the de-facto complainant. In pursuance of the above said conspiracy, A2 to A4 were watching the movement of the de-facto complainant. They informed the same to A1. At their instance, the deceased A1 Muthusamy caused assault to the de-facto complainant with aruval in the head, criminal intimation and caused the injuries.

3. Seeking quashment of the criminal case, this petitioner, who is arrayed as A5 has filed this petition on the ground that except the confession statement of the co-accused namely the deceased Muthusamy, no other materials have been collected during the course of investigation.



4. Heard both sides and the entire CD file has been called for and perused.

5. Perusal of the CD file indicates to light several facts. The de-facto complainant, Ramasamy alleged to have killed one KTS Raja, who is the friend of the deceased-A1. The deceased-A1 tried to kill the de-facto complainant in 2011, in which he sustained injuries. So the de-facto complainant wanted to kill the deceased-A1.

6. Fearing some trouble, A1 went to Bombay and later returned to the native place, but was absconding. A plot was made to invite the deceased-A1 to his friends house. On the date of the occurrence, the deceased-A1 was murdered by the de-facto complainant and others, over which a case was also registered.

7. From the facts narrated above, it is seen that KTS Raja was murdered by the de-facto complainant; A1 wanted to murder the de-facto complainant, but failed, the deceased-A1 was later murdered by the de-facto complainant and others. So these events spoke much about the enmity exists between the above said persons.



8. Now the learned counsel appearing for the petitioner would submit that in the above said events, the above said motive between deceased-A1, de-facto complainant, he is noway involved. There was no motive for him also to cause assault to the de-facto complainant.

9. It is a clear case of retaliation alleged to have been committed by the deceased-A1, in pursuance of the above said conspiracy between the co-accused. There is a specific allegation to the effect that this petitioner was engaged to inform the deceased-A1 about the movement of the de-facto complainant.

10. Whether the prosecution can succeed in proving of guilt of the accused is a matter for trial. But on going through the entire CD file, it is seen that enough materials have been collected in the form of statement of witnesses to implicate this petitioner into the offence.

11. Since, serious of murder attack and counter attack has been made, I am of the considered view that this is not a fittest case to quash the proceedings. The petitioner has to face the trial to its logical conclusion. So I find no merit in this petition.



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12.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

28/03/2023

Index:Yes/No
Internet:Yes/No

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To,

1.The Judicial Magistrate No.IV,
Tirunelveli

2.The Inspector of Police,
Thatchanallur Police Station,
Tirunelveli City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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