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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.6366 of 2023

and

Crl.MP(MD)Nos.5558 and 5560 of 2023

Devendra Boobathi : Petitioner/A3

Vs.

1.The Inspector of Police,
Peraiyur Police Station,
Ramanathapuram District.
(Crime No.151 of 2020) : R1/Complainant

2.R.Sundaram : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in SC No.311 of 2022 on the file of the Sub Court, Mudukulathur and quash the same as illegal.

For Petitioner : Mr.K.Kumaravel

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

**O R D E R**

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This criminal original petition is filed seeking quashment of case in SC No.311 of 2022 on the file of the Sub Court, Mudukulathur.

2.The case of the prosecution in brief:-

Some three months prior to the occurrence, A1 and A2 approached one Chellamuthu for arranging her daughter to be married to A3. But they were not willing. So, A3 was inimical against the de-facto complainant as if he is the reason for the above said refusal by Chellamuthu. On 30/08/2020 at about 09.50 pm, in the night, when the de-facto complainant along with his relatives were sitting in front of his house, at the instigation of A3, A1 and A2 came to the house of the de-facto complainant in a two wheeler and hurled the petrol bombs in the house. Luckily, they escaped from the attack. But the petrol bomb exploded, causing damage to the wall, gate, etc. On the basis of the above said occurrence, a case in Crime No.151 of 2020 was registered for the offences under sections 307, 511 IPC r/w 3(a) of Explosive Substances Act. After completing the formalities of investigation,



charge sheet was filed and it was taken cognizance in SC No.311 of 2021 by the trial court.

3. Seeking quashment of the same, this petitioner, who is arrayed as A3 filed this petition stating that absolutely, no material has been collected during the course of investigation to connect him in this case.

4. Heard both sides.

5. Reading of the final report shows that this petitioner has arrayed as an accused for the offence under section section 307 IPC r/w 3(a) of the Explosive Substance Act r/w 109 IPC punishable on par with Explosives Substances offence.

6. Section 307 IPC reads as under:-

"307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and



shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.—When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death."

7. Section 3 of the Explosives Substance Act, reads as under:-

"3. Punishment for causing explosion likely to endanger life or property.— Any person who unlawfully and maliciously causes by—

(a) any explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with imprisonment for life, or with rigorous imprisonment of either description which shall not be less than



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ten years, and shall also be liable to fine;

(b) any special category explosive substance an explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not, be punished with death, or rigorous imprisonment for life, and shall also be liable to fine."

8.The abetment is defined under section 107 IPC,
which reads as under:-

"107.**Abetment of a thing.**—A person abets the doing of a thing, who—

(First)—Instigates any person to do that thing; or

(Secondly)—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or



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(Thirdly)– Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

9. So in view of the above ingredients, it is seen that the foundation of the basis for the above said attack is inimical existed between the de-facto complainant and the accused. Sufficient materials have been collected during the course of investigation to show the enmity between the parties. Whether there was abetment by this petitioner is the factual question, which cannot be gone into at this stage. So the trial process must be taken to its logical conclusion. I find absolutely no merit to quash the proceedings as against the petitioner.



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

26/04/2023

Index: Yes/No
Internet: Yes/No
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To,

1. The Sub Court,
Mudukulathur.

2. The Inspector of Police,
Peraiyur Police Station,
Ramanathapuram District.

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



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G.ILANGOVAN, J

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