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Crl.R.C.(MD).No.1149 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2023

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THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.1149 of 2022
and Crl.M.P.(MD).No.14445 of 2022

Sheik Meeran

... Petitioner/Accused No.9

Vs.

State rep. by
The Inspector of Police,
Eraniel Police Station,
Kanniyakumari District.
(in Crime No.145 of 2011)

...Respondent/Complainant

PRAYER: This Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records in Crl.M.P.No. 8439 of 2021 in S.C.No.330 of 2019, dated 22.08.2022 on the file of the learned III Additional District and Sessions Judge, Tirunelveli and revise the same.

For Petitioner : Mr.N.Mohideen Basha

For Respondent : Mr.R.Suresh Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been preferred against the order passed in Crl.M.P.No.8439 of 2021 in S.C.No.330 of 2019, dated 22.08.2022 on the file of the learned III Additional District and Sessions Judge, Tirunelveli.



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2.The case of the prosecution in brief:

The defacto complainant, who is the wife of the deceased, lodged a complaint stating that she married the deceased some 1 ½ years prior to the date of occurrence. The deceased Nagarajan was a lessee of a shop in Thingal Santhai Fish market. On 18.04.2011 at about 05.00 a.m., he went to the fish market for attending the work. At that time, he was intercepted by a vehicle. He was hit and he fell down. Four occupants from the above said car caused severe injuries with knife, aruval, etc., Then they fled away from that place, after committing the above said assault. He was taken to the Asaripallam Government Hospital, where, he was declared to be dead.

3.On the basis of the above said complaint, a case was registered and final report was filed against 9 persons implicating this petitioner as 9th accused. Charges were framed under Section 120(b), 109, 34 r/w 302 and 201 IPC, that was taken cognizance by the trial Court. The matter is pending before the learned III Additional District and Sessions Judge, Tirunelveli, in S.C.No.330 of 2019. Pending the above said process, this petition has been filed under Section 227 of Cr.P.C. seeking discharge from the charges. That came to be dismissed by the trial Court by the order, dated 22.08.2022. Against which, this revision petition has been preferred.



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4.Heard Both sides. CD file also sent for and perused.

5.As per the case of the prosecution enmity occurred between this petitioner and the deceased over sharing of the lease amount. It has been stated to the effect that with the help of this petitioner, deceased planned to obtain fishing market right, some four years prior to the occurrence. With the help of the first accused, fifth accused and sixth accused, with the help of witness Kathiresan and deceased Nagarajan obtained fishing marketing right in the name of one Kathiresan. Because of the above said, this petitioner was paid Rs.7,500/- per month as mamool. Since this petitioner was in jail during the relevant period, the above said mamool was taken by the second accused and gave the same to the family members of this petitioner. The balance amount was shared between the above said persons. The above said arrangement with regard to the payment, was objected by the deceased Nagarajan. He also stopped the sharing of the amount with the other above noted persons. Because of that there was enmity between the deceased and the above noted persons.

6.To wreck vengeance, all of them conspired together and tried to kill the deceased. When that was intimated to this petitioner, he also abetted



and instigated the co-accused, stating that he will do financial help. The money was also arranged. In pursuance of the above said only the accused committed murder.

7.The learned counsel for the petitioner submitted that on the date of alleged occurrence, this petitioner was in prison in connection with another murder case. Now he has been detained in prison as life convict. As per the case of the prosecution, the accused Nos.1, 6 & 7 met this petitioner in the Central prison and hatched the conspiracy. But, no material has been collected by the prosecution to show the visiting of the co-accused to the prison. So this is the only ground that has been made by the petitioner.

8.But the petition is bereft of proper particulars. The reason being that as per the case of the prosecution, some four years prior to the occurrence, the arrangement was made by the deceased along with co-accused to obtain fishing rights with the help of this petitioner and monthly mamool was also regularly paid to the family of this petitioner, since he was in custody. The date of imprisonment is the main point. But in the petition he has not mentioned any date of imprisonment. But, however, with regard to the conspiracy issue, it is the case of the prosecution that the co-accused met the petitioner in prison on various dates, for which the statement of the



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Superintendent of Central Prison has been recorded. He has stated in his statement that on various dates, various persons have visited the petitioner i.e., on 27.10.2020 Sheik Nathar Ali, on 19.10.2010 Arumugam, on 11.11.2010 Mohammed, on 24.11.2010 Nijaam Sirajudeen, Udumaan Ali & Shanaavaar, on 09.12.2010 Sheik Nathar Ali, Abdul Kadar & Shahul Hameed, on 23.12.2010 Mohamed Usain, on 08.02.2011 Sheik Nathar Ali, on 22.02.2011 Sheik Nathar Ali, on 17.03.2011 Saadiq Batsha, on 22.03.2011 Sahaya Andro and on 31.03.2011 Arasa Bali, Sheik, Buhari & Bhasheer, were visited the petitioner. From the statement of the Superintendent, it is seen that several persons visited the Central Prison on various dates and met this petitioner.

9.By pointing out this statement, the learned counsel for the petitioner would submit that nowhere, it has been stated by him that the co-accused as mentioned in the final report has met this petitioner in prison. So according to him, absolutely, there was no possibility for the conspiracy to have taken place without the interview made by the co-accused with this petitioner in the Central Prison. According to him, this is only connecting link, which the prosecution produced before the trial Court. Since the statement of Superintendent itself does not show the visit of this petitioner, then the case has to fail.



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10. But this argument cannot be accepted for the simple reason that it has been stated by the prosecution that by using some other's name, the above said visit has been made by the co-accused. So the then Superintendent of Central Prison and other officials, who were available at the time of visit can speak about the identity of the persons. So from the statement alone it cannot be said that no material is available. So this ground is not now available to the petitioner. It is a matter for evidence during trial.

11. In a gruesome manner the deceased was done to death by the accused. When criminal conspiracy is alleged, it can be proved by the prosecution either through direct or circumstantial evidence. The petitioner cannot expect this Court now to assess the evidentiary value of the witnesses to be deposed before the trial Court at the time of trial.

12. As mentioned above, according to the prosecution case, this petitioner is the main reason for the commission of the offence. Therefore, I find, absolutely, no merits in this petition. This petition deserves to be dismissed. Accordingly, this revision petition is **dismissed**. The order passed in Crl.M.P.No.8439 of 2021 in S.C.No.330 of 2019, dated



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22.08.2022 on the file of the learned III Additional District and Sessions Judge, Tirunelveli, is confirmed.

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13. After passing this order, the learned counsel for the petitioner made a request that a direction may be issued to the trial Court to expedite the trial process and complete the same within a short time. Since the offence is of the year 2011 and the case is of the year 2019, there shall be a direction to the learned III Additional District and Sessions Judge, Tirunelveli, to expedite the trial process and complete the same within a period of **six** months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

02.02.2023

Index : Yes / No
Internet : Yes / No
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To

1. The III Additional District and Sessions Judge, Tirunelveli.
2. The Inspector of Police, Eraniel Police Station, Kanniyakumari District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVA,J.

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