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CRL O.P. No.28899 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 23.10.2024

Pronounced on : 25.11.2024

CORAM

The Hon`ble Mr. Justice P.DHANABAL

Crl. O.P. No.28899 of 2022
and Crl. M.P. No.17672 of 2022

Anuradha W/o. Raghu Petitioner.

vs.

1. State represented by:
The Inspector of Police,
SIPCOT Police Station,
Krishnagiri District.
[Cr. No.201 of 2021]

2. Harish S/o. Narayanan ... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for records in connection with PRC No.58 of 2022 pending on the file of the learned Judicial Magistrate Court No.II, Hosur and quash the same.



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For Petitioner : Mr. R. John Sathyan, Senior Advocate
for Mr. P. Divakar

For Respondents : Mrs. G.V. Kasthuri,
Additional Public Prosecutor [for R1]
MR. P.M. Jayachandran [for R2]

ORDER

This Criminal Original petition has been filed to quash the proceedings in PRC No.58 of 2022 pending on the file of the learned Judicial Magistrate No.II, Hosur as against the petitioner.

2. **The shorts facts of the case necessary to dispose of this petition are as follows:-**

The defacto complainant lodged a complaint dated 17.06.2021 before the 1st respondent police that he was informed by his cousin brother Manoj that his brother Abilash was found murdered at Pedarpalli, Rajaji Nagar. In fact, when the complainant along with his family members rushed to the scene of occurrence, he learnt that his brother Abilash was indiscriminately attacked and murdered by A1 to A3 namely Sabarisingh, Naveen, Murali and others and when he was with his friend



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Arun Kumar and the said Arun Kumar tried to prevent the offenders, he was threatened and chased away from the scene of occurrence. Thereafter, FIR has been registered in Cr. No.201 of 2021 under Sections 147, 148, 341, 294(b), 302, 506(2), 120-B, 212, 34 and 201 of IPC against 7 persons. Initially, FIR was registered as against 3 named persons. After completion of investigation, charge sheet was filed as against 7 persons and this petitioner has been implicated as 7th accused for the offence under Section 212 r/w 302 of IPC. Now, this petitioner / 7th accused has challenged the charge sheet filed against her.

3. The learned counsel appearing for the petitioner would submit that this petitioner is the Sister of 6th accused and the 6th accused is not a named accused in the FIR and the respondent police have filed the charge sheet against this petitioner stating that the brother of the petitioner has also involved in the murder of the deceased and he was implicated as 6th accused and this petitioner, knowing very well about the involvement of the 6th accused in a murder case, has allowed the 6th accused into her house in order to help him and thereby, she harboured



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the accused. This is the only allegation alleged against this petitioner.

Even according to the prosecution case, the person who alleged to be a neighbour of the petitioner has only stated about the petitioner that after murder of the deceased, the 6th accused was in the house of this petitioner. Apart from that, there is no any allegation and evidence as against this petitioner. Even as per the statement of witnesses, there is no materials about the date on which he saw the 6th accused with this petitioner in her house and vaguely stated omnibus allegations and based on the omnibus and bald allegations, the petitioner cannot be roped into the criminal case. The petitioner is a practising Advocate in the locality and already a complaint was lodged against the police officials before the Human Rights Commission and she was the Advocate for the 6th accused, thereby, in order to take vengeance, the respondent police have wantonly roped the petitioner into this case. This petitioner is a practising Advocate and she has been roped into this case based on the statement of witnesses who were examined by the investigation officer, one year after completion of other witnesses and it shows that the petitioner was implicated in this case with malafide intention. Therefore,



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the pending proceedings as against this petitioner are abuse of process of law and the same are liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the 1st respondent would submit that the petitioner's brother Kantharaj has been arrayed as 6th accused, who has involved in the murder case and the petitioner, as a Sister of 6th accused, knowing very well that the 6th accused has involved in the murder case, allowed him into her house in order to concele him and to evade from the clutches of law, thereby, she harboured the accused. On investigation, there is a prima facie evidence is available as against this petitioner. Even after knowing very well that the 6th accused has involved in a murder case, she allowed him into her house and harboured him and therefore, the petitioner is arrayed as 7th accused. Hence the petitioner has to face the trial and the veracity of witnesses cannot be decided at this stage and the petition is liable to be dismissed.



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5. The learned Additional Public Prosecutor has relied on the following judgments in support of his contention:

(i) ***Rajeev Kourav v. Baisahab and others reported in (2020) 3 Supreme Court Cases 317.***

(ii) ***Siligireddy Janardhan Reddy vs State of Telangana reported in 2022 SCC Online TS 1191.***

6. The 2nd respondent also appeared through his counsel and he has not raised any objection and also stated that this petitioner has appeared as counsel for the 6th accused.

7. This Court heard both sides and perused all the materials available on record.

8. In this case, the petitioner was charged for the offence under Section 212 r/w 302 of IPC on the allegation that after knowing very well that his brother 6th accused involved in a murder case, harboured and concealed with intention to screening her from legal punishment. This is



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the only allegation.

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9. This petitioner is not a named accused in the FIR. Even according to the prosecution case, she committed offence of harbouring the accused A6. There is no any materials that the petitioner, even after knowing well that her brother was involved in the occurrence and he has been implicated in a murder case AND allowed him into her house. It is an admitted fact that already a complaint was filed as against the police officials and also lodged a private complaint and also filed a petition under Section 97 of Cr.PC. and lodged a complaint before the Human Rights Commission. In all the above cases, this petitioner appeared as counsel for the 6th accused. Thereafter only, this petitioner has been arrayed as accused in this case. Even according to the prosecution case, there are vague allegations that this petitioner harboured the 6th accused. There is no any material to substantiate the presence of the 6th accused in the house of the petitioner and there is no materials to show that this petitioner harboured or concealed her brother after knowing the reasons to believe that her brother committed murder of the deceased and had intention to screening him from legal punishment. Therefore, there is no



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specific allegations as against the petitioner and only based on the bald and vague allegations, this petitioner was implicated in this case and that too after long battle with the police officials. In this case, the independent witnesses were examined on 30.06.2021 and thereafter on 30.05.2022, i.e., after about 11 months, the investigation officer has included the witnesses as if this petitioner harboured the 6th accused and she was implicated in this case. Therefore, the above said attitude of the investigation officer shows his malafide intention. After completion of enquiry of witnesses, one year later included the witnesses as against this petitioner with bald allegations. Therefore, the pending proceedings against the petitioner are abuse of process of law and is liable to be quashed as against this petitioner.

10. As far as the judgments relied upon by the learned Additional Public Prosecutor are concerned, they will not be applicable to the present facts of the case, because in this case, there are no any materials to proceed with the case against this petitioner and no specific allegations as against the petitioner and they are general and omnibus allegations against the petitioner.



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11. In view of the above discussions, this Court is of the opinion that the pending proceedings as against the petitioner are abuse of process of law and the same is liable to be quashed.

12. Accordingly, the Criminal Original Petition is allowed. The pending proceedings in PRC No.58 of 2022 pending on the file of the learned Judicial Magistrate Court No.II, Hosur, are quashed as against this petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

25.11.2024

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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P.DHANABAL,J

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To

1. The Judicial Magistrate Court No.II, Hosur.
2. The Public Prosecutor, High Court, Madras.
3. The Inspector of Police, SIPCOT Police Station, Krishnagiri District.

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