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Crl.R.C.Nos.2124, 2126 & 2242 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.2124, 2126 and 2242 of 2023
and
Crl.M.P.Nos.19317 and 20046 of 2023

Subbu @ Subramani

... Petitioner in
Crl.RC.No.2124/2023

Mohan

... Petitioner in
Crl.RC.No.2126/2023

Vicky @ Vignesh

... Petitioner in
Crl.RC.No.2242/2023

Vs.

1.The State rep. by
The Inspector of Police,
D-3 Ice House Police Station.
Chennai – 600 005.
Crime No.65 of 2021

2.Srinivasan

... Respondents

[R2 suo motu impleaded as per order
dated 24.01.2024 in all Crl.RCs.]



PRAYER in Crl.RC.No.2124 of 2023: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records relating to the order dated 15.11.2023 passed by the learned VI Additional Sessions Judge, Chennai in Crl.M.P.No.15132 of 2023 in S.C.No.241 of 2022 and to set aside the same as against the petitioner.

PRAYER in Crl.RC.No.2126 of 2023: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records relating to the order dated 15.11.2023 passed by the learned VI Additional Sessions Judge, Chennai in Crl.M.P.No.15131 of 2023 in S.C.No.241 of 2022 and to set aside the same as against the petitioner.

PRAYER in Crl.RC.No.2242 of 2023: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed by the learned VI Additional Sessions Judge, Chennai in Crl.M.P.No.18894 of 2022 in S.C.No.241 of 2022 dated 15.11.2023.

For Petitioner in
Crl.RC.Nos.2124
& 2126/2023 : Mr.S.Anil Sandeep

For Petitioner in
Crl.RC.No.2242/2023 : Mr.K.G.Senthil Kumar



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For R1 in all Crl.RCs : Mr.S.Raja Kumar
Additional Public Prosecutor

For R2 in all Crl.RCs : Mr.R.Prabakar
[Legal Aid Counsel]

COMMON ORDER

Read this in conjunction with and in continuation of earlier proceedings made in the previous listings on 24.01.2024, 16.02.2024 and 07.03.2024, which read as follows:

'Proceedings dated 24.01.2024:

Today, the learned Government Advocate (Crl. Side) appearing on behalf of the respondent Police in all the Criminal Revision Cases filed counter. Both the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) ready for arguments.

2.It is seen that in this case, the defacto complainant Babu died. Now, the father of Babu viz., Srinivasan is the defacto complainant, hence, it would be appropriate the said Srinivasan to be made as party in all the Criminal Revision Cases.

3.In view of the above, Mr.Srinivasan, No.85/49,



Kumaran Nagar, Second Street, Thandaiyarpur, Chennai-600 081 is *suo-motu* impleaded as 2nd respondent in all the Criminal Revision Cases.

4.Registry is directed to issue notice to the impleaded 2nd respondent returnable on 16.02.2024. Private notice is also permitted.

5.The respondent Police is directed inform the 2nd respondent about the pendency of the present revisions.

6.Post the matter on 16.02.2024. Till then the interim order already granted by this Court on 02.01.2024 in Crl.R.C.No.2242 of 2023 and Crl.M.P.Nos.20046 & 20048 of 2023 are extended.

Proceedings dated 16.02.2024:

Today, the 2nd respondent/defacto complainant appeared before this Court on the notice served by the 1st respondent Police.

2.The 2nd respondent submits that it is a clear case of murder and he has got objection in entertaining all the revisions. He further submits that he had handed over the video recordings to the 1st respondent Police about the plan on which his son was done to death. The 1st respondent Police though received the same, not



conducted any investigation in this regard. Hence, it cannot be treated as a mere case of accident. He further submits that he needs legal aid counsel to put forth his case.

3.In view of the above, this Court appoints Mr.R.Prabakar, learned counsel (Contact No.90475 88331) as Legal Aid Counsel for the 2nd respondent in all the Criminal Revision Cases.

4.The learned Government Advocate (Cril Side) as well as the learned counsel for the petitioners to serve the copies to the legal aid counsel for the 2nd respondent.

5.The 2nd respondent to have interaction with the legal aid counsel and submit the documents and evidence in support of his contention.

6.Post the matter on 07.03.2024. Till then the interim order already granted by this Court is extended.

Proceedings dated 07.03.2024:

This Court, on the last hearing date, on the appearance of the victim's father appointed Mr.R.Prabakar, learned counsel as Legal Aid Counsel.

2.Today, the learned Legal Aid Counsel submitted that the case as projected by the prosecution is not correct. Likewise, the stand taken by the accused in the case that it



is a case of accidental fire is also not correct. The family members of the deceased received a video from one Subramanian, which shows that fire was set on the deceased wantedly and not by accident and the petrol was collected from the bike of the deceased. The said Subramanian also confirmed the same. Further, the occurrence had taken place in a 10x10 sq.ft. room, where 4 or 5 persons were sitting and lying down. At that time, they poured petrol and ignited fire, but that portion alone not sent and whether they are recorded or not sent is not known. The father of the victim had informed the police about the this video and also about Subramanian sending the same. But the respondent Police have not taken any action.

3.The said occurrence had taken place at 12 noon on 26.01.2021 and about 7.30 p.m. the accused had dropped the victim in his house and left. Thereafter, one of the relatives of the victim taken the victim to a nearby clinic, wherein he was referred to Stanley Hospital. Subsequently, the Doctors in the Stanley Hospital referred to KMC Hospital. In KMC, one Dr.Suresh Babu examined the victim and recorded the details in Accident Register No.0207808. This is the first instance, the victim was examined by a Doctor, in which, the history of the incident



is recorded that some known persons poured petrol in his leg and set fire around 12.00 noon on 21.06.2021 and the place is also recorded. Despite the same, the Police had not taken any action.

4.The learned Legal Aid Counsel further submitted that the deceased had love affair with A1's relative girl and it was opposed by A1 Mohan and for this reason, the victim was killed and projected it as accident. It is a clear case of murder and hence, he prayed for further investigation.

5.The learned Legal Aid Counsel seeks small accommodation to file an affidavit to put forth his version of the case, which has not been considered by the respondent Police.

6.Post the matter on 12.03.2024.

2.This Court initially considered the petitioners' contention as though the incident to be an accident and ordered notice and granted stay of the proceedings. But on appearance of the second respondent/defacto complainant/father of the deceased, who is represented by Mr.Prabakar, legal aid counsel and on his submission, it was found that it is not a case of accident as projected by the petitioners. In this case, the defacto



complainant narrated the sequence of events and the manner in which the investigation has been conducted despite the defacto complainant giving particulars doubting about the explanation given by all the accused. It is further submitted that the deceased had love affair with A1's relative which was opposed by A1 and other accused joined him and that must be the reason for his son's death by setting fire to him using petrol, the immediate conduct of the persons present in the room not providing medical treatment, further intoxicating his son and later at night hours he was dropped at home with severe burn injuries. Thereafter, the injured was taken to hospital, only CSR assigned and after the death of his son, FIR registered for murder, at that time, the petitioner informed about Subramaniam who recorded the happenings in his camera forwarded to 2nd respondent which was given to the respondent police but no action was taken. The second respondent also sent a representation to the Chief Minister's Cell and filed an affidavit narrating all the events.

3.In view of the same, this Court finds that there is reason for the respondent police to invoke Section 173(8) Cr.P.C. to conduct further



investigation on the details given by the defacto complainant to enquire the defacto complainant, record the statement and enquire the said Subramaniam, collect electronic evidence available and to file a supplementary charge sheet in this case, if required. This exercise to be conducted and completed without further delay. In the meanwhile, the proceedings in S.C.No.241 of 2022 on the file of the learned VI Additional Sessions Judge at Chennai to be kept in abeyance till then. After filing of the supplementary charge sheet, if fresh materials are available and charges to be altered, the Trial Court is free to alter the charges. In any event, whether it is a case of accident or not cannot be considered at this stage. In view of the same, the affidavit filed by the second respondent/defacto complainant to be sent to the respondent police in a sealed cover along with the copy of this order. The observations made herein is only for the limited purpose of disposal of the above revision.

4. With the above direction, the Criminal Revision Petitions stand disposed of. Consequently, connected miscellaneous petitions are closed.



Crl.R.C.Nos.2124, 2126 & 2242 of 2023

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5.This Court appreciates Mr.R.Prabakar appointed as legal aid counsel for the second respondent in rendering his sincere efforts in this regard.

12.03.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

cse

Note: The Registry to send the original affidavit of the second respondent along with a copy of this order in a sealed cover to the first respondent police, photostat copy of affidavit to be retained in the bundle.

Note: Issue order copy on 19.03.2024



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To

- 1.The Inspector of Police,
D-3 Ice House Police Station.
Chennai – 600 005.
- 2.The VI Additional Sessions Judge,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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