



Crl.O.P.(MD)No.1375 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.1375 of 2022 and
Crl.M.P.(MD).Nos.1030 and 1031 of 2022

Valangaiah Pandian

... Petitioner/Accused No.5

Vs.

1.State rep.
the Inspector of Police,
Sivagiri Police Station
Tirunelveli District
presently Tenkasi District.
(Crime No.200 of 2017)

2.Murugan

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in S.C.No.665 of 2018, on the file of the learned III Additional District and Sessions Judge, Tirunelveli and quash the same.

For petitioner
For R-1

: Mr.S.Balamurugan
: Mr.S.S.Madhavan,
Government Advocate
(Criminal Side)

For R-2

: No Appearance



ORDER

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This petition has been filed seeking to quash the case in S.C.No.665 of 2018 for the offence punishable under Sections 353, 302, 506(II) IPC on the file of the learned III Additional District and Sessions Judge, Tirunelveli.

2. The case of the prosecution is that it is alleged that one T.Murugesan, Forester, Sivagiri South Range was done to death by the accused persons and on the complaint preferred by the 2nd respondent, the respondent police registered the case against one Arun and other two persons. It is alleged that on completion of investigation, the respondent police have included one Neelaveni and the petitioner herein and the charge against the petitioner is under Section 302 r/w 109 IPC. On completion of investigation, charge sheet has been laid before the jurisdictional court and the case was committed to the court of Sessions and the same is yet to be taken on file.

3. The learned counsel for the petitioner would submit that though the respondent police examined 34 witnesses and recorded their statements, there is no legally admissible evidence as against the petitioner herein except the statement of the interested witness under



Section 161(3) Cr.P.C. Therefore, he prays for allowing this petition.

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4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to him to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be had to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*** wherein, the Hon'ble Apex Court held as under :

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter



XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, which we have extracted illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised:

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable



offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

6. For the reasons aforesaid, this Court finds no ground or scope to quash S.C.No.665 of 2018, pending on the file of the learned III Additional District and Sessions Judge, Tirunelveli. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petitions are dismissed.



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7. The learned counsel appearing for the petitioner submitted that this Court may consider dispensing with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

23.01.2024

Index : Yes/No

Internet : Yes

RR

To

1. The III Additional District and Sessions Judge
Tirunelveli.

2. The Inspector of Police,
Sivagiri Police Station
Tenkasi District.

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



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M.DHANDAPANI. J.

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