



Crl.O.P.(MD) No.4866 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.4866 of 2021

and

Crl.M.P.(MD) Nos.2768 & 2769 of 2021

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... Petitioner

Vs.

The State represented through,
Inspector of Police,
Poovandhi Police Station,
Sivaganagi District.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the final report in P.R.C.No.30 of 2020 on the file of the Judicial Magistrate No.II, Sivagangai and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl.Side)



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ORDER

This Criminal Original Petition is to quash the final report in S.C.No.118 of 2021 on the file of Principal District Judge, Sivagangai.

2. The case of the prosecution is that due to previous enmity between one Aadhisankar and Abdul Rahman, one Prathyunan who is the close friend of Aadhisankar was murdered on 18.05.2020 by the accused 1 to 8 near Padamathur Manthai. On receipt of information, the mother of deceased Prathyunan went to the spot and thereafter, lodged a complaint with the Inspector of Police, Poovandhi Police Station, Sivagangai which came to be registered as F.I.R in Crime No.162 of 2020 on 19.05.2020 for an offence punishable under Section 302 I.P.C against the accused, namely, Gopinathan, Vetri Selvan and his friends. The Inspector of Police, Poovandhi Police Station after completing investigation had laid a final report in P.R.C.No.30 of 2020 before the Judicial Magistrate Court No.2, Sivagangai, against nine accused for the offences punishable under Sections 147, 148, 120B, 342, 302 I.P.C. The present petitioner is arrayed as accused No.8 in the final report.



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3. The learned counsel appearing for the petitioner would contend that since the petitioner is a close friend of Gopinathan (A1), he has been falsely implicated by the police in the case and also he was not present in the place of occurrence. His further contention is that the present petitioner's name is not mentioned in the F.I.R and a cursory look at the 161(3) Cr.P.C statements recorded by the police would reveal that there was a dispute between one Aadhisankar and Abdul Rahman and the present petitioner is not at all connected with the present case. It is also his contention that the petitioner had only handed over his two wheeler Hero Honda Splender bearing Registration No.TN53AJ1531 to Gopinathan (A1) and since the offence was committed by Gopinathan, he has also been implicated. Therefore, the petitioner prayed for quashing the entire final report in S.C.No.118 of 2021.

4. Per contra, Mr.Anbunithi, Additional Public Prosecutor would contend that the present petitioner conspired with other accused to murder Prathyunan and towards commission of the said offence, he had given his two wheeler to the prime accused Gopinathan. He also drew the attention of this Court to the 161(3) Cr.P.C Statements of the witnesses wherein, the eye witnesses had clearly spelt out the presence of the accused in the



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place of occurrence and that there are also two other witnesses to prove the conspiracy between all the accused. Therefore, he prayed for dismissal of the present petition.

5. It is the case of the prosecution that A1 to A9 (including the present accused) conspired with each other to take away the life of Prathyunan and in furtherance of the said conspiracy, the present accused had handed over his vehicle to A1. All the other accused went in two two-wheelers and murdered Prathyunan on 18.05.2020 at about 03.00pm. There are eye witnesses in the present case as per the statements recorded by the police under Section 161(3) Cr.P.C and now the case is posted for appearance of the accused. It is seen from the records that the accused are not appearing regularly consequent upon which Non-bailable Warrants are pending against many of the accused. The 161(3) Cr.P.C Statements recorded by the police *prima facie* shows that the present petitioner conspired with other accused to take away the life of Prathyunan. The truth or otherwise of the said allegations can only be gone into at the time of trial. In such circumstances, I do not find any reason to quash the entire final report in S.C.No.118 of 2021 on the file of Principal District Judge, Sivagangai.



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WEB COPY 6. Accordingly, this Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

29.01.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

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To

- 1.The State represented through,
Inspector of Police,
Poovandhi Police Station,
Sivaganagi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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