



CRL OP(MD). No.6319 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 05.03.2024

CORAM

The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.6319 of 2022
and Crl.M.P(MD).No.4366 of 2022**

Raja @ Rocket Raja

... Petitioner

Vs

1.The State rep. by
The Inspector of Police,
Surandai Police Station,
Tirunelveli District.
Crime No.61/2009

2.Antony Savarimuthu

... Respondents

PRAYER :- Criminal Original Petition filed under section 482 of Cr.P.C., to call for the records and quash the proceedings in P.R.C.No.9/2016 on the file of the learned Judicial Magistrate, Alankulam, Tirunelveli.

For Petitioner : Mr.V.Kathirvelu
Senior Counsel for
Mr.K.Prabhu

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor for R1
No-appearance for R2



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.9/2016 on the file of the learned Judicial Magistrate, Alankulam, Tirunelveli, against the petitioner herein.

2. The case of the prosecution is that on 24.02.2009, at about 06.00 p.m., the second respondent and the Police Officials intercepted the vehicle bearing TN 58 B 5440 driven by the first accused. In order to escape from the scene of occurrence, the first accused threw a country bomb on the second respondent, in which, the police officials got injured. The respondent Police recovered country bomb, aruval and weapons from the co-accused. Hence, the respondent Police registered a case in Crime No.61 of 2009 and after completion of investigation, the charge sheet has been filed in P.R.C.No.9 of 2016 for the offence punishable under Sections 294(b), 353, 307 and 323 IPC and Sections 3 and 5 of I.E.S Act @ Sections 307, 353, 120(b) IPC and Sections 3(a) and 4(b) of I.E.S Act and Section 25(1-B)(a) of Arms Act.



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3. The learned Senior Counsel appearing for the petitioner submits that earlier though 17 cases were pending against the petitioner, 13 cases were ended in acquittal and only four cases are pending in different part of the State and all those cases are foisted against the petitioner as the petitioner is a community leader and he did not commit any offence as alleged by the prosecution. The learned counsel would further submit that in the First information Report, initially the name of the petitioner was not found place and only based on the confession statement of the co-accused, he was falsely implicated and no recovery was made from the petitioner and he was not at all available in the scene of occurrence. The learned Senior counsel further submits that merely because of the pendency of criminal cases against the petitioner, the claim made by the petitioner cannot be rejected and when there are no any materials/substance against the petitioner, the ordeal of facing trial is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner is a notorious person in the locality and 17 previous cases are pending against the petitioner all



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over the State. Though 13 cases were ended in acquittal, it does not mean that the petitioner will not be included/prosecuted and most of the offences are heinous in nature and the accused persons joined together and threw country bomb on the Police Officials and weapons were also recovered from the residence of the petitioner and thereby, the case has been rightly registered against the petitioner and hence, no interference is warranted. He would further submit that there are materials available as against the petitioner and the offences against the petitioner are triable before the Court below.

5. Admittedly, the petitioner is arrayed as A5 in this case. Though the learned Senior Counsel appearing for the petitioner claims that the name of the petitioner was not found place in the First Information Report initially and based on the confession statement of the co-accused, he was falsely implicated in this case and the petitioner is not available in the scene of occurrence and there was no recovery from the petitioner, whereas, the respondents Police claim that weapons were recovered from the petitioner and based on the confession statement of the co-accused, he was implicated in this case. It is trite that though 17 previous cases



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were pending against the petitioner, in which, 13 cases were ended in acquittal and four previous cases are still pending against the petitioner, the Court has to consider whether prima facie materials are available to proceed against the accused persons. In this case, there is a specific allegation against the petitioner that weapons were recovered from the petitioner.

6. 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 the petitioner 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 made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***

7. For the reasons aforesaid, this Court finds no ground or scope to quash P.R.C.No.9 of 2016, pending on the file of the learned



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Judicial Magistrate, Alankulam, Tirunelveli District. Accordingly, this Criminal Original Petition is dismissed.

8. The learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below.

9. 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. Consequently, connected miscellaneous petition is closed.

05.03.2024

NCC : Yes/No
Index : Yes/No
ssb

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- 1.The learned Judicial Magistrate, Alankulam, Tirunelveli District
- 2.The Inspector of Police,
Surandai Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J

ssb

**ORDER
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