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Crl.O.P.(MD)No.10642 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.03.2024**

CORAM:

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

Crl.O.P.(MD) No.10642 of 2022
and
Crl.M.P.(MD).Nos.6662 and 6664 of 2022

Nagarajan

... Petitioner

Vs.

1.State represented by
the Inspector of Police,
Theni Police Station,
Theni District.
(Crime No.269 of 2019)

2.Surya Prakash

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to P.R.C.No.5 of 2020 on the file of the learned Judicial Magistrate, Theni, Theni District in Crime No.269 of 2019 and quash the same.

For petitioner

: Mr.A.Uthayakumar

For R-1

: Mr.P.Kottaichamy,
Government Advocate
(Criminal Side)

For R-2

: Mr.G.Karuppasamy Pandian



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Crl.O.P.(MD)No.10642 of 2022



ORDER

This petition has been filed seeking to quash the proceedings in P.R.C.No.5 of 2020 on the file of the learned Judicial Magistrate, Theni, Theni District.

2. The case of the prosecution is that the defacto complainant is the son of the deceased. On 28.03.2019, the second respondent's father consumed poison and on the next day, he was declared "dead". Hence, the second respondent made a complaint before the Allinagaram Police Station and the same was registered under Section 174 Cr.P.C and thereafter, it was transferred to the first respondent Police, since his father has consumed poison at his Jeweller shop, which is coming under the jurisdiction of the first respondent Police and the same was registered in Crime No.269 of 2019 for the alleged offence punishable under Section 306 IPC. The first respondent Police took up the investigation and after investigation, it would reveal that the deceased purchased gold articles from the petitioner in a loan basis and failed to repay the amount. Thereafter, the petitioner and two others insisted upon the deceased to repay the amount. Due to which, the deceased committed suicide.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there



is no specific allegation as against the petitioner. He would further submit that the proceedings in P.R.C.No.5 of 2020 was now committed to the Sessions Court and after committal, the case was taken on file in S.C.No.35 of 2022 and the same was made over to the Chief Judicial Magistrate Court, Theni and now, it is pending.

4. The learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. Heard the learned counsel appearing for the second respondent.

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)



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7. For the reasons aforesaid, this Court finds no ground or scope to quash S.C.No.35 of 2022 before the learned Chief Judicial Magistrate, Theni. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

8. At this juncture, 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. 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.

04.03.2024

Index : Yes/No
Internet : Yes/No
TSG



CrI.O.P.(MD)No.10642 of 2022

To

1.The Chief Judicial Magistrate, Theni.

2.The Inspector of Police,
Theni Police Station,
Theni District.

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

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M.DHANDAPANI. J.

TSG

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