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Crl.O.P.(MD)No.21128 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2024

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THE HON'BLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD)No.21128 of 2024

and

Crl.M.P(MD).Nos.13107 and 13109 of 2024

Mohammed Matheen @ Mathin

: Petitioner

Vs.

1.The State of Tamil Nadu,
rep., by the Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.
Crime No.39 of 2024

2.Risshana Fathima

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the impugned charge sheet in S.C.No.184 of 2024 pending on the file of the learned II Additional District and Sessions Judge, Thoothukudi in connection with Crime No.39 of 2024 on the file of the first respondent police, quash the same.

For Petitioner : Mr.M.Murugesan

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (crl.side)



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ORDER

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This Petition has been filed to quash the impugned charge sheet in S.C.No.184 of 2024 pending on the file of the learned II Additional District and Sessions Judge, Thoothukudi, in connection with Crime No. 39 of 2024 on the file of the first respondent police.

2. The petitioner is accused/A2 in S.C.No.184 of 2024 pending on the file of the learned II Additional District and Sessions Judge, Thoothukudi, for committing the offence under Sections 302, 109 and 120(B) IPC.

3. The petitioner is the president of '*Sunnath Val Jamad*' from the year 2019. He is running a 'Dhameera Trust' and also conducting a 'Dhameera Clinic' along with the medical shops. L.W.16 and the deceased namely, Kadhar Meera Sahib opposed the selection of the petitioner as president of said Jamad for the further period. Therefore, there was some dispute between the deceased and the petitioner. In such circumstances, on 14.03.2024, the deceased went to the medical shop of the petitioner and requested to give medicine. A1 and her sister namely, Rahmat Jabin, who were working under the control of A2 refused to give medicine. Therefore,



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there was some wordy altercation between them. Due to that motive, the petitioner/A2 conspired with A1 to murder the deceased. As per conspiracy, on 15.03.2024, A1 drove an Innova Car bearing Reg.No.TN-72-AR-0066 and dashed the same against the deceased and caused death to him and fled away from the scene of occurrence. Therefore, the respondent police registered a case in Crime No.39 of 2024 for the offence under Section 302 r/w109 IPC and filed final report and the same was taken on file in S.C.No.184 of 2024 on the file of the learned II Additional District and Sessions Judge, Thoothukudi, for the offence under Sections 120(B), 302 r/w 109 of IPC. Pending the same, the petitioner has filed this quash petition to quash the proceedings against him.

4. The learned counsel for the petitioner would submit that there was no material collected by the Investigating Agency against the petitioner to prove the offence under Section either 120(B) IPC or 109 IPC and he referred the statement of the witnesses and requested this Court to appreciate the contents of the statement recorded under Section 161 of Cr.P.C., to substantiate his plea that there is no evidence to frame the charges.



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5. The learned Additional Public Prosecutor would submit that number of witnesses have been examined to prove the conspiracy and also to prove the motive between the deceased and the petitioner. Number of incriminating materials were also collected to prove the charge of conspiracy and abetment. Therefore, he seeks to dismiss the quash petition.

6. This Court considered the rival submissions and perused the materials available on record.

7. The alleged car belonged to the petitioner, and it was used by A1 to dash against the deceased and cause death. Other incriminating materials also available on record against the petitioner. Therefore, this Court *prima facie* satisfies that there is adequate materials available to frame the charge against the petitioner and therefore, this Court finds no reason to entertain this quash petition.

8. Accordingly, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all points before the trial Court.



9. At this juncture, the learned counsel for the petitioner seeks indulgence of this Court that the personal appearance of the petitioner may be dispensed with before the trial Court and also produced the medical records to show the illness of the petitioner.

10. Considering the age of the petitioner i.e., 60 years old and he suffers disc collapse, this Court is inclined to dispensed with the personal appearance of the petitioner before the trial Court on all hearing dates except the following hearings:

10.1 (i) The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;

(ii) The date of questioning under Section 313 Cr.P.C;

(iii) On the date of Judgement.

10.2. The petitioner is directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates.

10.3. The petitioner shall not dispute the identity of the witnesses.

10.4. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification.



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10.5. If the petitioner adopt any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India in ***State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.***

- Consequently, the connected Miscellaneous Petitions are closed.

03.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
Rmk

To

- 1.The II Additional District and Sessions Judge,
Thoothukudi.
- 2.The Inspector of Police,
Thattarmadam Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

Rmk

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