

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.756 of 2018
and
Crl.MP.Nos.8675 & 8676 of 2018

1.R.Nirmala
2.K.Thiruvengadam
3.Shamugapriya

...Petitioners

Versus

State rep.by its,
Deputy Superintendent of Police,
Uthangarai Sub Division,
Uthangarai.
(Crime No.165 of 2017)

...Respondent

PRAYER:

The Criminal Revision Petition filed under Section 397 and 401 of the Criminal Procedure Code, to set aside the order passed in Crl.MP.No.197 of 2018, dated 04.06.2018 in Sessions case no.141 of 2017 dismissing the petition on the file of the Principal Sessions Judge, Krishnagiri.

For Petitioners: Mr.V.Rajamohan

For Respondent : Mr.R.Surya Prakash
Government Advocate (Crl.Side)

O R D E R

The petitioners have filed this Criminal revision case seeking to set aside the order dated 04.06.2018 passed in C.MP.No.197 of 2018 in Sessions case No. 141 of 2017 on the file of the learned Principal Sessions Judge, Krishnagiri whereby the petition filed by them to discharge them from the Criminal proceedings was dismissed.

2. This Revision is filed against the order passed in CrI.MP.No.197 of 2018 on 04.06.2018 on the ground that there is no specific averments made against the petitioners in the complaint given by the defacto complainant to attract the various offences punishable under Section 147, 294(b), 323, 333, 342, 355 and 506(i) of I.P.C under the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act,1995. It is also contended that this is a case in counter to wreck vengeance against the petitioners. On 21.04.2017, the first petitioner/first accused has given a complaint against the defacto complainant and it was registered in Crime No. 164 of 2017 and as a counter blast, the instant complaint was given by the defacto complainant which was registered as Crime No.165 of 2017. The defacto complainant is a teacher working in Lakkampatti Panchayat Union Middle School where the first petitioner/first accused is working as Headmistress and A-2 to A-3 are also working as Teachers. During the course of investigation, the investigation officer did not properly conduct any investigation in Crime No.164 of 2017 which was given by the first petitioner against the defacto complainant. It was further contended that the investigation was conducted in violation of Rule 7 (2) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1989 and also Order No. 588 (A) of Madras Police Standing Order, but it was not considered by the Court below while dismissing the petition for discharge.

3. After hearing the both parties, the learned Principal Sessions Judge has concluded that even assuming that the investigation has not been conducted properly and certain material witnesses were not examined, it will not be a ground for discharging the petitioners and the materials made available has to be considered by the Court only at the time of trial. It was further concluded that since the case and counter case arise between the same parties, they have to be dealt with simultaneously and discharge of the petitioners is not warranted.

4. The learned counsel for the petitioners submit that there is no materials to connect the petitioners to the offence complained of and in such event, the petitioners need not undergo the ordeal of trial. The first petitioner is working as Headmistress in the Lakkampatti Panchayat Union Middle School where the petitioners 2 and 3 as well as the defacto complainant are working as teachers. The complaint against the petitioners is an abuse of process of law and there is no ground made out to proceed against the petitioners.

5. The learned Government Advocate submitted that during the course of investigation, the investigation specifically recorded the statement of Tr. Chidambaram who witnessed the quarrel between the accused and defacto complainant. Further, the said witness has stated that the first petitioner/first accused abused the defacto complainant in filthy languages and such statement was also corroborated by other witnesses. It is also stated that the investigation officer has totally examined 31 witnesses in the case and the charge sheet was filed on 13.11.2017. The investigation officer has also recorded the statement of the Doctor, who treated the defacto complainant and therefore, there are adequate material made available to proceed with the trial against the petitioners. While so, at this stage, the plea of discharge of the petitioners was rightly rejected by the Court below and prayed for dismissal of the Criminal Revision Case.

6. Heard both sides. On perusal of the records, particularly the statement recorded by the investigation officer under Section 161 of Cr.P.C. the Court below has concluded that there are several materials placed against the petitioners and the correctness of those materials have to be gone into only at the time of trial. Therefore, the court below prima facie found that there are material evidence made available against the petitioners and therefore, the plea of discharge raised by them cannot be considered. Further, it is seen from the records that upon registration of the case against the petitioners, investigation was conducted and a final report was filed against the petitioners and it was taken on file as S.C. No. 141 of 2017 since the offences alleged to have been committed by the petitioners are punishable under the Schedule Castes and the Schedule Tribes (Prevention of Atrocities) Act, 1995. Similarly, investigation in the case in Crime No. ***164 of 2017** filed against the defacto complainant herein was also completed, and charge sheet has not been filed till the impugned order has been passed. When there are case and counter case, they have to be tried jointly. While so, entertaining the petition for discharge filed by the petitioners will not arise at this stage. The court below is right in refusing to discharge the petitioners and it does not call for any interference by this Court. Accordingly, the Criminal Revision case is dismissed. The Trial Magistrate is hereby directed to take on file the final report, when filed by the Investigation Officer in Crime No. ***164 of 2017**, and to commit the same to the learned Principal Sessions Judge and the learned Principal Sessions Judge shall try both the case and counter case filed on the basis of the complaint given by the petitioners against the defacto complainant and by the defacto complainant against the

petitioners and disposed of the cases in accordance with law.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)
26.07.2018

***Amended as per order of
this Court dated 11.08.2018
made in CrI.Rc.756 of 2018 //True Copy//
-s/d-
Assistant Registrar(CS IX)
dated 20.08.2018**

Sub Assistant Registrar

klt

To

1. The Principal Sessions Judge,
Krishnagiri.
2. The Deputy Superintendent of Police,
Uthangarai Sub Division,
Uthangarai.
3. The Public Prosecutor,
High Court, Madras.-104.

**To be substituted
in the place of order
despatched on
09.08.2018**

+1cc to Mr.N.Mohideen Basha, Advocate Sr.55175

CrI.R.C.No.756 of 2018
and
CrI.MP.Nos.8675 & 8676 of 2018

kk[co]
srg 27/07/2018
CS/20/08/18

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