

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.07.2019

CORAM
THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15883 of 2019
and Crl.M.P.No.7925 of 2019

1.Nagaraj Reddy
2.Muniraj

...Petitioners

-Vs-

1.State Rep. by
The Inspector of Police,
Bagalur Police Station,
Krishnagiri District.
(Crime No.237/2015)

2.C.Murugesh

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, praying to call for the records in S.C.No.122 of 2018, on the file of the Principle District and Sessions Judge, Krishnagiri, Krishnagiri District, quash the same insofar as the offences under Section 3(2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned.

For Petitioner : M/s.V.Rajamohan

For Respondents : Mr.M.Mohamed Riyaz for R1
Additional Public Prosecutor
for R1
No appearance for R2

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings pending before the Court below, insofar as the offences under Section 3(2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The respondent police registered an FIR in Crime No.237 of 2015, against the accused persons, who are the petitioners before this Court and after investigation, a final report has been filed for an offence under Sections 341 and 307 of IPC r/w 3(2) (Va) of SC/ST (POA) Amendment Ordinance Act, 2014.

3. The case of the prosecution is that there was a previous enmity between the petitioners and the defacto

complainant, due to a land dispute. When the defacto complainant was returning back to his village on 27.04.2015 at about 10.30 a.m., he is said to have been restrained by the petitioners and was attempted to be attacked with a sickle. The defacto complainant is said to have run away from the place of occurrence and in the course of attack he sustained cut injuries on his fingers, wrist, head and shoulder.

4. The respondent police have filed a final report for an offence under Sections 341 and 307 of IPC and insofar as these offences are concerned, there are prima facie materials and there are no grounds to interfere with the final report regarding these offences. The challenge in this petition is only with regard to adding the offence under Section 3(2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. The learned counsel for the petitioners submitted that there are absolutely no materials to add the offence under the SC/ST Act, against the petitioners. The learned counsel submitted that the respondent police have proceeded to add the offence under the SC/ST Act, only on the ground that the defacto complainant belonged to the Adi Dravidar community. According to the learned counsel for the petitioners, this itself cannot be a ground to add the offence under SC/ST Act unless and otherwise, there are materials to show that the petitioners have committed the offence against the person or the property, after knowing that such a person is a member of the SC or ST community and such property belongs to him. This requirement is mandatory before adding the offence under SC/ST Act. According, to the learned counsel for the petitioners, this requirement has not been satisfied in the final report.

6. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that there was a previous enmity between the petitioners and the defacto complainant, regarding a land dispute and the petitioners had attacked the defacto complainant with deadly weapons and there are prima facie materials to show that the petitioners are aware about the fact that the defacto complainant belongs to the Adi Dravidar Community. Therefore, the learned counsel submitted that there is no ground to interfere with the proceedings pending before the Court below.

7. The second respondent has been served with the notice and he did not appear before the Court either in person or through his counsel and the name of the second respondent has also been printed in the cause list.

8. This Court has carefully considered the submissions made on either side and perused the materials available on record.

9. This Court is not able to find any material to sustain the final report under Section 3(2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. Even the defacto complainant in his statement recorded under Section 161 of Cr.P.C has not stated anything about the petitioners being aware about the community and therefore attacked him and took away his property. All the witnesses only speak about the incident, wherein the defacto complainant was attacked with deadly weapons by the petitioners and none of the witnesses speak about any utterance about the caste or the knowledge of the petitioners that the defacto complainant belongs to the Adi Dravidar community.

10. This Court does not find any material to sustain the final report under Section 3(2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

11. In the result, the proceedings in S.C.No.122 of 2018, on the file of the Principle District and Sessions Judge, Krishnagiri, Krishnagiri District is quashed, insofar as the offence under Section 3(2) (Va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 is concerned. It is sustained insofar as an offence under Sections 341 and 307 of IPC. The Court below is directed to transfer the case to the appropriate Court to enable the prosecution to continue with the proceedings against the petitioners for the other offences under the Indian Penal Code. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District and Sessions Judge,
PCR Court,
Krishnagiri Dist.

2.The Inspector of Police,
Bagalur Police Station,
Krishnagiri District.

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3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.N.Mohideen Basha, Advocate, S.R.No.59607

CrI.O.P.No.15883 of 2019

NR(CO)

RRS (22/07/2019)



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