



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.07.2019
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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Crl.A.(MD)No.293 of 2019

P.Kumar

... Appellant

Vs.

1.The Deputy Superintendent of Police,
Dindigul.

2.The Sub Inspector of Police,
North Police Station,
Dindigul.

3.Abdul Khadar

4.Sarpunisha

5.Abuthaheer
(Crime No.256 of 2004)

... Respondents

Prayer: Criminal Appeal is filed under Section 374(2) of Cr.P.C, to call for the records and set aside the acquittal judgment and order passed in S.C.No.121 of 2009, on the file of the Principal Sessions Judge, Dindigul, dated 16.12.2009 and convict the respondents 3 to 5 accordingly.

For Appellant : Mr.A.Jayaramachandran

For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R1 & R2

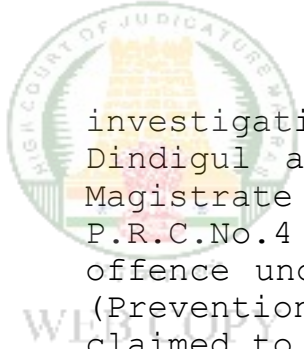
: Mr.R.R.Kannan for R3 to R5

J U D G M E N T

The respondent 3 to 5 herein were acquitted by judgment dated 16.12.2009 in S.C.No.121 of 2009, on the file of the learned Principal Sessions Judge, Dindigul in respect of the offence under Section 3(1)(x) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2.Heard the learned counsel on either side.

3.The prosecution case is that the respondents 3 to 5 abused the appellant/Kumar by referring to his community on 21.12.2003 at about 05.00 p.m. In this regard, Crime No.256 of 2004 was registered on the file of North Town Police Station, Dindigul. The

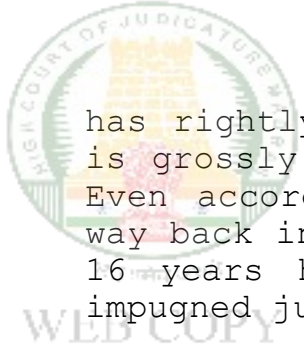


investigation was taken up by the Deputy Superintendent of Police, Dindigul and final report was filed before the learned Judicial Magistrate No.II, Dindigul. It was committed to Sessions Court in P.R.C.No.4 of 2005. Charge was framed against three accused for the offence under Section 3(1)(x) of Scheduled Cast and Scheduled Tribe (Prevention of Atrocities) Act, 1989. They denied the charges and claimed to be tried.

4.The prosecution examined as many as nine witnesses and marked Exs.1 to 5. On the side of the accused photocopies alone were marked.

5.The learned Trial Judge by the impugned judgment acquitted the accused of the offence with which they were charged. Challenging the same, this criminal appeal has been filed.

6.This Court at the very outset must concur with the submission of the learned counsel appearing for the appellant that the learned Trial Judge went wrong in holding that merely because the final report was not filed within the time stipulated in Rule 7 (2) of Scheduled Cast and Scheduled Tribe (Prevention of Atrocities) Act, 1995, the benefit should go to the accused. Rule 7(2) of the Act mandates that the investigating officer shall complete the investigation on top priority and file the final report in the Special Court within a period of sixty days. During the relevant time, the time limit set out was thirty days. If there is any delay in investigation or in filing the final report, it shall be explained in writing by the investigating officer. Now the question that arises for consideration is whether delay in filing the final report within the time stipulated in Rule 7(2) of the Act, can enure to the benefit of the accused. The Court below has referred to the delay in filing the final report as one of the reasons for acquittal. I am of the view that the accused cannot take advantage of the delay in filing final report within the prescribed period. The investigating officer will have to face the consequences for not filing the final report within the time stipulated. But then, the delay will on no account lead to the acquittal of the accused. Having clarified the legal position, now the question that arises for consideration is whether the impugned judgment warrants any intervention. It is seen that according to the appellant, the occurrence in question took place on 21.12.2003. But then, the FIR/Ex.P.4 came to be registered only on 25.02.2004. Ex.P.1/complaint is also dated 22.02.2004. Of course, P.W.1/appellant herein would claim that on the very next day after the occurrence took place, he lodged a complaint but there is no proof forthcoming. It is also seen that there is some civil dispute pending between the building owner and the accused. The accused have suggested that the complaint had been engineered at the instance of the building owner. I need not go into the same. I am satisfied that the gross delay in lodging the complaint has not at all been explained and that is sufficient to cast doubt on the veracity and genuineness of the complaint. The learned Trial Judge



has rightly acquitted the accused on the ground that the complaint is grossly belated and that there is no explanation for the delay. Even according to the prosecution, the occurrence had taken place way back in the year 2003. We are now in the year 2019. More than 16 years have gone by. I find no ground to interfere with the impugned judgment and the appeal stands dismissed.

Sd/-

Assistant Registrar (Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

To:

- 1 THE PRINCIPAL SESSIONS JUDGE,
DINDIGUL.
- 2 THE JUDICIAL MAGISTRATE NO.II,
DINDIGUL.
- 3 THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL.
- 4 THE DEPUTY SUPERINTENDENT OF POLICE,
DINDIGUL.
- 5 THE SUB INSPECTOR OF POLICE,
NORTH POLICE STATION,
DINDIGUL.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION (RECORDS),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
(2 COPIES)

+1 CC to M/s.R.R.KANNAN, Advocate (SR-78283[F] dated 29/07/2019)

Crl.A. (MD) No.293 of 2019
29.07.2019

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