

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.09.2020
PRONOUNCED ON : 04.09.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.19744 of 2015 and
Crl.M.P.No.1 of 2015

1.Arul Prakash
2.Manjunath
3.Ramesh
4.Siva
5.Manickam
6.Selvam

.... Petitioners

Vs.

1. The State Rep. by,
the Deputy Superintendent of Police,
Krishnagiri Division,
Krishnagiri District.

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

3. Karthigeyan

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pending on the file of the 2nd respondent police namely Inspector of Police, Krishnagiri Town Police Station, Krishnagiri District in Crime No.227 of 2015 and to quash the criminal proceeding.

For Petitioners: Mr.E.Kannadasan

For R1 & R2 : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

For R3 : Mr.S.Saravana Kumar

ORDER

The petitioners, who are accused in C.C.No.227 of 2015, for offence under Sections 294(b), 342, 323 IPC r/w 3(1)(r)(s) and 3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have filed this quash petition.

2.The case of the prosecution is that on 15.04.2015, at about 07.30 p.m, the 3rd respondent Police received information from the Government Hospital, Krishnagiri that the 3rd respondent and his father Sundaresan, Amman Nagar, Krishnagiri were assaulted and taking treatment as inpatient. The 2nd respondent Police had gone to the hospital, enquired the 3rd respondent and received the complaint. The complaint is that on 14.04.2015, the 3rd respondent, who is a Civil Engineer along with his wife and children visited their relative of Omalur and returned back, the 3rd respondent engaged auto bearing registration number TN 29 K 3862 of the 1st petitioner. The 1st petitioner, who is the driver of the auto demanded Rs.40/-, the 3rd respondent stated that he would only give normal charge of Rs.30/-. The 3rd respondent and his families got into the auto and reached their house. After getting down, the 3rd respondent paid Rs.30/-, which was not acceptable to the 1st petitioner and fight aroused between them. At that time, the father of the 3rd respondent came out from the house and attempted to pacify them. The 1st petitioner used abusive words and called his friends from the auto stand. Nearly 15-20 persons came in three auto and assaulted the 3rd respondent and his father by using caste name in public. After the intervention of the neighbours and the dog of the 3rd respondent, the assailants/auto drivers/petitioners escaped from the scene of occurrence. The 3rd respondent and his father immediately, got admitted in the Government Hospital, Krishnagiri.

3.Initially the FIR was registered under Sections 294(b), 342, 323 IPC on 15.04.2015. On 20.04.2015, the 1st and 2nd petitioners were arrested and produced for remand along with remand report and Section alteration report filed including offence under Section 3(1)(r)(s) and 3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4.The learned counsel for the petitioners submitted that the petitioners are Auto drivers and they have auto stand at Amman Nagar and the 3rd respondent was also residing there and there is no reason that the petitioners to use the prohibitory words, while attacking the 3rd respondent and his father. The 2nd respondent Police altered the Section under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 due to the pressure exerted by the 3rd respondent's father, who is a retired government servant and president of Scheduled Caste Officers Association and various other associations. When the complaint was lodged on 15.04.2014, there is no mention about the petitioners using abusive words. Hence, altering the Section under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, is an after thought, which is

made with ulterior motive, misusing of a benevolent Act.

5.It is further submitted that the alteration report reached the Court five days after the date of occurrence on 20.04.2015. On compulsion of the 3rd respondent, his father and other communal organizations, the 2nd respondent altered the Section, knowing well that there was no use of abusive words. Assailing these points, the petitioners filed the above petition and advanced his arguments.

6.The learned counsel for the 3rd respondent submitted that it is a settled proposition that the FIR is not an encyclopedia. The 3rd respondent and his father belonging to Scheduled Caste Community, is an open secret. The 3rd respondent's father is a retired Government officer from the Public Works Department, who actively participated in Schedules Caste and Scheduled Tribes Welfare Association of the Government Servants and for downtrodden people. He further submitted that the 3rd respondent's father fighting for the downtrodden people was not to the liking of others. On the fateful day, alighting from the bus, the 3rd respondent engaged auto to return back to his house along with his wife and children. The 1st petitioner was driven the auto and there was some dispute in payment of auto fare. Taking that opportunity, the 1st petitioner called other auto drivers and nearly 15 to 20 persons came in three autos, including the president of the auto stand the 3rd petitioner Ramesh, who led the attack along with other auto drivers, assaulted the 3rd respondent and his father with wooden log and hands. Due to the brutal attack, the 3rd respondent's father had lost his teeth. The 3rd respondent was attacked on their hands, legs and knee and face. The neighbours of the 3rd respondent rescued the 3rd respondent and his father. The German Shepherd dog of the 3rd respondent also came to rescue. Thereafter, the assailants left the scene. The petitioners knowing well that the 3rd respondent and his father belonging to Scheduled Caste Community, used the abusive prohibitory words and attacked them in public for a trivial issue. Further, the Doctors had given opinion that the injuries suffered by the 3rd respondent and his father are grievous in nature.

7.He further submitted that the 3rd respondent moved a direction petition before this Court in Crl.O.P.No.17959 of 2017, in which this Court by order dated 31.08.2017, directed the 2nd respondent to file a final report within a period of four weeks. Despite the positive direction of this Court, the investigation in this case, is not completed and charge sheet is not filed even after five years of the occurrence.

8.The learned Additional Public Prosecutor appearing for the respondents 1 and 2 submitted that the 3rd respondent's and his

father were assaulted by the petitioners and others on 14.04.2015 at about 05.00 p.m. The 3rd respondent had engaged auto of the 1st petitioner to return back to his house along with family members. There was some dispute with regard to payment of auto fare. Due to which, fight aroused and the 1st petitioner called other auto drivers. Nearly 15 to 20 persons came in three autos, including the president of the auto stand the 3rd petitioner Ramesh, assaulted the 3rd respondent and his father and caused grievous injuries. The 3rd respondent father lost his teeth and his face was severely injured. Both the 3rd respondent and his father immediately got admitted in the Government Hospital, Krishnagiri and took treatment as inpatient. The 2nd respondent Police was informed about the attack from the hospital and on 15.04.2014 went to the hospital, received the complaint and registered an FIR, visited the scene of occurrence, prepared observation mahazar, rough sketch, enquired the witnesses near the scene of occurrence and recorded their statements. On finding that the petitioners while attacking used abusive and offensive words by calling the caste name of the 3rd respondent and his father in public, altered the offence under Sections 3(1)(r)(s) and 3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

9.The learned Additional Public Prosecutor further submitted that the injured father of the 3rd respondent was a President of Scheduled Caste Welfare Association and was fighting for depressed community. The petitioners/assailants were well aware about the caste and community of the 3rd respondent and his father. On 20.04.2014, the 1st and 2nd petitioners were arrested and were produced for remand. It is further submitted that the alteration report had reached the Judicial Magistrate Court, Krishnagiri early as could be seen from the registered number given as 690 and the remand report later reached the Court as could be seen from the registered number as 709. Hence, the contention of the petitioner that both the alteration report and remand report had gone together to the Court is not correct. Further the investigation is at the penultimate stage and it is to be completed. Due to the pendency of the above petition, the investigation got delayed and the same would be completed within a short span of time. From the materials collected during investigation reveals the petitioners were committed the above offences.

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

11.It is seen that the 3rd respondent is a Civil Engineer, who had engaged auto of the 1st petitioner to return back to his house along with wife and children. There was dispute in payment of hiring charges, for which, the 3rd respondent and his

father were assaulted by the petitioners. The 1st petitioner called the President of the auto stand, who mobilized 15-20 auto drivers and came in three auto, attacked the 3rd respondent and his father. Both of them were seriously injured and the 3rd respondent's father lost his teeth and they had immediately got admitted in the Government Hospital, Krishnagiri. From the hospital, the information was sent to the 2nd respondent who came, received the complaint, registered FIR, commenced the investigation, recorded the statements of witnesses present in the scene of occurrence. In the statement of 3rd respondent and his father, the usage of abusive words and the occurrence was in public place and public view. Further, it is seen that one of the injured, the father of the 3rd respondent is a retired Government Officer, who was forefront in fighting for the rightful cause for the depressed community people. The alteration report reached the Court well before the remand report though on the same day.

12. Further, there are sufficient materials to proceed against the petitioners. Thus the points raised by the learned counsel for the petitioners does not merit any consideration. In view of the above, this Criminal Original Petition lacks merits and is, accordingly, dismissed. Consequently, the connected Miscellaneous Petition is closed.

13. This Court in Crl.O.P.No.17959 of 2017 by order dated 31.08.2017, directed the 2nd respondent to complete the investigation and file a final report within a period of four weeks. Hence, the 2nd respondent Police is to complete the investigation and file the final report within a stipulated time of four weeks from the date of receipt of a copy of this order. In the event of filing positive final report, the trial Court is directed to dispose of the case as per Section 14 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vv2
To

1. The Deputy Superintendent of Police,
Krishnagiri Division,
Krishnagiri District.

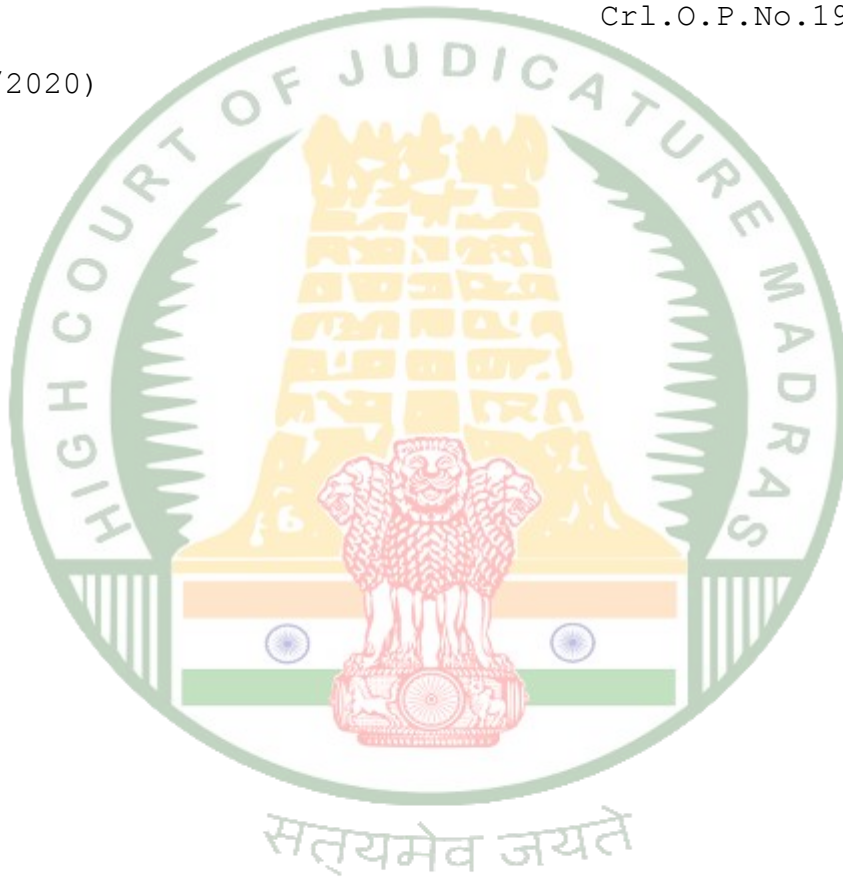
2.The Inspector of Police,
Krishnagiri Town Police Station,
Krishnagiri District.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.S,Saravana kumar, Advocate, sr no.30180

Crl.O.P.No.19744 of 2015

KK(CO)
RMP(11/12/2020)



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