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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.220 of 2018
and
Crl,M.P.Nos.2279 and 2330 of 2018

1. S.Thirumalaivasan
2. K.Semmalai
3. M.Ranganathan
4. S.Udaiyasurian
5. K.Subramani
6. S.Pawnambal
7. S.Pandian

... Petitioners/Accused 1 to 7

.. Vs ..

State rep.by
The Inspector of Police,
Nallanpillipetral Police Station,
Gingee Taluk,
Villupuram District.
(Crime No.314/2011)

....Respondent/Complainant

Prayer :- Criminal Revision filed under Sections 397 and 401 of the Criminal Procedure Code, against the order of dismissing the discharge petition filed under Section 227 of Cr.P.C in Crl.M.P.No.436 of 2017 in S.C.No.500 of 2013 on the file of the Assistant Sessions Judge, Gingee, dated 05.01.2018.

For Petitioners : No appearance

For Respondent : Mr.R.Vinoth Raja,
Government Advocate (Crl.Side)

O R D E R

The learned counsel for the revision petitioner is absent.

2. The learned Government Advocate (Crl.Side) contended that charges have been framed against the petitioner as early as on 12.11.2013 for alleged offence under Sections 147,148, 294, 323, 324, 506 (ii) and 307 I.P.C.



3. After charges have been framed, the accused 1 to 7 has filed this petition for discharge under Section 227 of Cr.P.C on the ground that there is a material contradiction in the statement of witnesses.

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4. Discharge of accused can be entertained in the following cases:-

- a) Where the evidence produced is not sufficient
- b) Where there is no legal ground for proceeding against the accused.
- c) Where no sanction has been obtained
- d) Where the prosecution is clearly barred by limitation;

or

e) Where he is precluded from proceeding because of a prior judgment of High Court.

5. In the instant case, whether there is a contradiction between the version of the prosecution witnesses and such a contradiction is on the material particulars amounting to material contradiction of on vital factors can be gone into only at the time of the trial. Furthermore, it is a case of 307 I.P.C medical evidence of Doctor as well as the wound certificate and accident register have been filed before the trial Court and hence the trial Court has come to the conclusion that sufficient material are available on record to frame charges and rejected the petition.

6. It is needless to say that appreciation of evidence on record at the stage of discharge is impermissible in law.

7. The Court can peruse the case diary. Appreciation of evidence on record at this stage is impermissible. At this stage the statements of witnesses are to be accepted as they are. The papers of investigation should be read as they are. The standard of test, proof and judgment which is needed for finding of a guilt or otherwise is not necessary for framing of charge at this stage and even a strong suspicion founded upon materials before the Court may justify framing of charge.

8. The Court can sift and weigh evidence for the purpose of finding out whether prima facie case against the accused has been made out. If two views are equally possible and the evidence gives rise to a grave suspicion, charge may be framed. The word 'ground' has been used in these two sections in the context of putting an accused on trial. It is in the trial, that the guilt or the innocence of the accused will be determined and not at the time of framing charge. The Court, therefore, need not undertake an elaborate inquiry in sifting and weighing the materials. Nor is it necessary to delve deep into various



aspects.

9. Hence taking into consideration the scope of the enquiry and the nature of the proceedings at the stage of the discharge proceedings, the trial Court has rightly come to the conclusion that once charges are framed the accused has to put on trial and he cannot be discharged of an offence.

10. Once the charge has been framed the accused has to be convicted or acquitted and the criminal proceedings cannot be drag by the Court and hence I do not find any reason to interfere with order passed by the trial Court. The trial Court has dismissed the petition for discharge on payment of costs of Rs.35,000/- to the District Legal Services Authority, Villupuram. The session Judge, Gingee to complete the trial within a period of 12 weeks therefor.

11. Accordingly, this Criminal Revision is partly allowed to the limited extent of modification of order of payment of costs of Rs.35,000/- alone. Consequently, connected Crl.M.Ps are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Sessions Judge, Gingee

2.The Inspector of Police,
Nallanpillipetral Police Station,
Gingee Taluk, Villupuram District.

3.The Public Prosecutor,
High Court, Madras.

Copy to:
The District Legal Service Authority,
Villupuram.

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KSM(CO)
CB(06/10/2021)