



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P. No.13075 of 2021
and C.M.P. No.7184 & 7196 of 2021

1.Saravanan
2.Ramesh
3.Babu @ Vadivel
4.Selvam

... Petitioners

Vs.

1. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Omalur Sub Division,
Salem District.

2. Alwar

... Respondents

Criminal original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in Special S.C. No.5 of 2019 on the file of Hon'ble Principal Sessions Court, Salem, and quash the same.

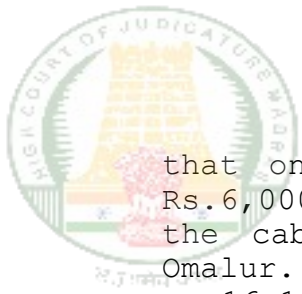
For Petitioners : Mr. G.Raghul

For Respondent-1 : Mr. A.Damodaran
Counsel for Govt. of Tamilnadu
(Criminal Side)

O R D E R

The petitioners A1 to A4 in Spl. SC No.5 of 2019 who are facing trial for the offences under Section 294 (b) 323, 324, 506(ii) IPC r/w. Sections 3(1)(r), 3(1)(s), 3(2)(va) of the Schedule Caste and the Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015, have filed this quash petition.

2. The primary contention of the petitioners is that the petitioners are the private cable Tv operators. The second petitioner lodged a complaint to the Inspector of Police, Omalur on 16.10.2018 against the de facto complaint herein informing



that on 15.10.2018, the cable wires of the petitioners worth Rs.6,000/- was cut and taken away. The said persons along with the cable wire was produced before the Inspector of Police, Omalur. The same was published in the Dailies of Salem edition on 16.10.2018 and 17.10.2048. Learned counsel for the petitioner further submits that by suppressing these facts, as a counter blast, the second respondent who is employed in Government Cable TV, lodged a complaint to the respondent police as though the petitioners herein had abused him by calling his caste name and assaulted him. The respondent police without conducting proper investigation filed a charge sheet in this case on 23.12.2018. In the charge sheet it is seen that there are totally 17 listed witnesses of which L.W.2 to L.W.4 are projected as eye witnesses, L.W.5 and 6 are the other witnesses who were present in the scene of occurrence. From the 161 statement of the witnesses, it is seen that all the statement of these witnesses are identical. The contention of the petitioner is that the respondent police, without conducting any worthwhile investigation, had adopted cut and paste method and mechanically concluded investigation. Further he submitted that in the complaint the specific name, address and caste of accused are given. While the de facto complainant was examined by the casualty doctor (L.W.11), at that time, he had only states that four known persons assaulted him and had not given their names. Further, the doctor in his statement state that the injuries are simple in nature hence offence under section 324 is not attracted. The contention of the petitioners is that the petitioner's lodged a complaint at an earlier point of time and the same was not investigated but the counter complaint is investigated and charge sheet filed. Assailing these points, the petitioners wanted the case to be quashed.

3. Learned counsel appearing for the Government of Tamilnadu (Criminal Side) submitted that the de facto complainant is working as a Government Cable Tv operator. He had went to attend the cable cut problem as per the direction of his manager. The accused herein are the private Tv cable operators who consider the Government Cable Tv operators as their business rivals. By sabotaging the Government Tv Cables, they disconnect the transmission of cable Tv and thereby, the subscribers of Government cable Tv gets disturbed and forced to avail petitioners' cable connection. For this purpose the Government Cable Tv connections are often cut. Since the transmission cable is cut, the de facto complainant had gone to attend the cable cut, and there he was assaulted by the petitioners, abusing and hitting him in public by calling his caste name. Not only calling his caste name but assaulted using iron rod, bottle and deadly weapons, he sustained grievous injuries and one of his co-employee took him to the hospital and thereafter informed the manager of Arasu cable Tv who informed police. The Police



registered FIR and on completion of investigation citing L.W.1 to L.W.17, charge sheet filed. In this case, L.W.1 injured, L.W.2 and L.W.6 are witnesses to the occurrence, L.W.7 & 8 are Observation Mahazar, L.W.9 and L.W.10 are the witness for arrest and confessions, L.W.11 is the casualty doctor who treated the de facto complainant, L.W.12 is the Tahsildar who produced the community certificate of the de facto complainant, L.W.13 is the Tahsildar who produced the community certificate for the petitioners, L.W.14 & 15 are the Head constables who aided investigation, L.W. 16 and 17 are the Investigating Officers. In this case, after proper investigation, charge sheet filed. The points raised by the petitioner are to be raised only during trial and the petitioner not taken any steps with regard to his complaint dated 16.10.2019, for the first time he is making such a plea which cannot be considered.

4. Considering the rival submissions and perusal of the material it is seen that the statements of eye witnesses L.W.1 to L.W.6 who were present in the scene of occurrence. It is natural that the statement would be identical. Non mentioning of the name in the Accident Register copy is proper. L.W.11, the casualty doctor, not to enter the name of the assailants or anyone's name otherwise it would lead to false implication and fabrication. It is normally entered as known or unknown person in the accident register which cannot be now taken as a ground in this petition. Further, the offence under Section 324 not attracted and cannot be considered on the facts of the case. Further this Court finds that there is no illegality in the investigation. The points raised by the petitioners with regard to their earlier complaint has to be put forth during trial and not in this quash petition. In view of the same this Court is not inclined to allow this petition.

5. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed. Considering that the charge sheet is filed in the year 2019 and there are only 17 witnesses in this case, the trial Court to give priority and complete the trial in Spl. Sc. No.5 of 2019, within a period of six months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

bkn



To

1. The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Omalar Sub Division,
Salem District.

2. The Principal Sessions Court, Salem.

3. The Public Prosecutor,
High Court,
Madras - 104.

Cr1.O.P. No.13075 of 2021

VSN-II (CO)
RLP (23/08/2021)