



WEB COPY



Crl.O.P.No.4435 of 2022

Crl.O.P.No.4435 of 2022 in
Crl.A.SR.No.6875 of 2022

R.PONGIAPPAN, J.

This petition has been filed praying to grant special leave to file an appeal against the order of acquittal dated 16.12.2021 passed in Spl.SC.No.5 of 2017 on the file of the Principal District and Sessions Judge, Special Court for SC/ST(PoA) Act, Perambalur.

2. The petitioner is the defacto complainant / victim / PW1 and P.W.2 are belongs to Hindu-Pallar Community and due to previous enmity, P.W.2 kidnapped A1's daughter on 21.09.2015 at about 7.15 hrs. While at the time the defacto complainant and P.W.3 were in the appellant's field, A1 to A9 with sickle, wooden logs, iron rods trespassed into the defacto complainant's property and uttered obscene words insulting the defacto complainant's caste and threatened the defacto complainant to hand over her daughter to them, otherwise they will break the tractor, water tank and chicken farm belong to the defacto complainant and they will burn all the belongings of the defacto complainant. Later on 22.09.2015 at about 5 a.m., they burnt the tractor and



Crl.O.P.No.4435 of 2022

the water tank attached to it bearing registration No.TN 46 F 1518 to the value of Rs.3,10,000/- and damaged the chicken farm with wooden logs and aruval. Hence, the first respondent police registered a case and filed final report against the respondents 2 to 9. The trial court after perusing the entire final report framed charges as against A1 to A9 for the offence punishable under Sections 147, 148, 447, 427, 294(b), 506(ii), 435 of IPC and Section 3 of TNPPDL Act and under Section 3 (2) (v) of SC/ST(PoA) Act. Since the accused are all denied the offence, case was put on trial. During the time of trial, in order to prove the case of prosecution, 17 witnesses were examined on the side of the prosecution as PW1 to PW17 and 12 documents were produced as Ex.P1 to P12. Besides, three material objects. After examining the prosecution witnesses, the petitioner was examined under Section 313 of Cr.P.C. examination wherein he denied the evidences given by the prosecution witnesses. Afterwards, on the side of the defendants one, Savithri was examined as D.W.1 and one document that is copy of F.I.R. registered in Cr.No.238 of 2015 was marked as D1.

3. Having considered the materials placed before the learned trial judge, came to the conclusion that the prosecution has not proved the offence and ultimately acquitted the accused from the charges.



Crl.O.P.No.4435 of 2022

WEB COPY

4. Later the petitioner who is the defacto complainant in the above referred case, intended to file an appeal and for which he preferred this application for granting special leave for filing an appeal.

5. Now on go through the evidences recorded on the side of the prosecution, the same shows, before the trial court in order to prove the occurrence, none of the eyewitness have been examined. In this regard, the contention raised by the petitioner is the case is based upon circumstantial evidence. On considering the said submission with relevant records, the witnesses who are all gave evidence are all in respect to properties which are all damaged in the occurrence. In otherwise, none of the accused are secured by the police. Further material objects which are all recovered in this case are not through the accused. Therefore in the absence of nexus between the crime and the accused, we cannot hold that the trial court failed to appreciate the evidence given by the prosecution witnesses. Mere deposing about occurrence place and the damage caused to the property is not sufficient to accept the case of the prosecution as the accused / R2 alone committed this offence. Being the reason that previous enmity is doubled



Crl.O.P.No.4435 of 2022

edged weapon, it cannot be said the respondents 2 to 9 are all committed this offence due to previous enmity. Therefore, there is no special grounds has been shown by the petitioner for granting leave to file the appeal.

6. Therefore, this criminal original petition is dismissed.

28.02.2022

lok



WEB COPY



Crl.O.P.No.4435 of 2022



WEB COPY



Crl.O.P.No.4435 of 2022

R.PONGIAPPAN, J.

lok

Crl.O.P.No.4435 of 2022

28.02.2022