



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6939 of 2022

and

Crl.M.P.Nos.3953 & 3954 of 2022

- 1.Jaishankar
- 2.Selvakumar
- 3.Muthuram
- 4.Ajithkumar

... Petitioners / Accused 1 to 4

Vs.

1. The State rep by
The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.

2. Dhanasekar

... Respondents / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records pertaining to the proceedings pending in S.C.No.13 of 2020 pending on the file of Sessions Judge, Special Court for Exclusive Trial Cases under SC & ST Act cases, Cuddalore District and quash the same.

For Petitioners : Mr.D.Dayalan

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor for R1

O R D E R

The Criminal Original Petition has been filed to call for the records pertaining to the proceedings pending in S.C.No.13 of 2020 pending on the file of Sessions Judge, Special Court for Exclusive Trial Cases under SC & ST Act cases, Cuddalore District and quash the same.



2.The learned counsel appearing for the petitioners submitted that the provisions of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 have been misused by the de-facto complainant as against the petitioners to settle personal score. He further submitted that, as per the complaint, during the first incident, only A1 was said to have abused the de-facto complainant. However, strangely, the 2nd statement has also been obtained from the other witnesses as if the petitioners have also abused the de-facto complainant. However, the final report has been filed only against the petitioners. He further submitted that entire complaint is foisted.

3.The learned Additional Public Prosecutor appearing for the 1st respondent submitted that the petitioners have abused the de-facto complainant calling him by a caste name and also assaulted him with wooden-log, stone and machete. He further submitted that the grounds raised by the petitioners are factual in nature and they can be tested only during the course of trial and the proceedings cannot be quashed.

4.At this juncture, the learned counsel for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

5.Accepting the said submission, the presence of the petitioners, before the trial Court is dispensed with on condition that the petitioners shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

6. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day when they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event of their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with in accordance with the judgement of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.



7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition in Crl.M.P.No.3953 of 2022 stands closed and Crl.M.P.No.3954 of 2022 is partly allowed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

vkr

To

1. The Sessions Judge,
Special Court for Exclusive Trial Cases
under SC and ST Act Cases, Cuddalore District.
2. The Inspector of Police,
Thittakudi Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.D.Dayalan, Advocate, S.R.No.21510

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and
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AJS[col]
NSK 19/04/2022