



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2022

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.R.C.No.1583 of 2017

and

Crl.MP.Nos.16062 & 16063 of 2017

1. Srinivasa Reddy
2. Narayana Reddy
3. Padmamma
4. Ramakrishna Reddy

... Petitioners

Vs.

The State Rep. by
Sub-Inspector of Police,
Kelamangalam Police Station,
Denkanikottai Taluk,
Krishnagiri District.

... Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the order passed in Crl.M.P.No.2053 of 2016 in C.C.No.176 of 2013 of the District Munsif-cum-Judicial Magistrate at Denkanikottai dated 29.08.2017.

For Petitioners : Mr.C.Samivel
Legal Aid Counsel

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

O R D E R

This Criminal Revision has been preferred challenging the order of the learned District Munsif-cum-Judicial Magistrate, Denkanikottai dated 29.08.2017 passed in Crl.MP.No.2053 of 2016 in C.C.No.176 of 2013, wherein the petition filed by the petitioners/accused to discharge all the accused has been dismissed.

2. The case of the prosecution is that the de facto complainant by name Muniappa, S/o.Balappa has given a complaint on the allegation that on 24.05.2013 at about 8.00.p.m, when de facto complainant and his wife Mallamma were working in their field, the petitioners/A1 to A5 came together with an intention to assault them; the first and second petitioners/A1 and A2 kicked the wife of the de facto



complainant with legs and caused simple injuries and the petitioners 3 to 5 attacked the de facto complainant with brick stone, iron rod and stick respectively and caused injuries. Alto A5 also threatened the de facto complainant and his wife that they would kill them. On the complaint given by the de facto complainant, a case has been registered against the accused in Crime No.413 of 2014 of Kelamangalam police station under Sections 294(b), 323, 324 and 506(ii) IPC. After completion of investigation, charge sheet has been filed against the accused under Sections 147, 148, 323, 324 and 506 (ii) IPC. After the case was taken on file by the learned District Munsif-cum-Judicial Magistrate, Denkanikottai in C.C.No.176 of 2013, the revision petitioners/accused filed a petition under Section 239 Cr.P.C to discharge them.

3. The main averments of the revision petitioners/accused made in the petition filed under Section 239 Cr.P.C is that the first revision petitioner/first accused has also given a counter complaint against the de facto complainant and the police has not taken any action on that and further the second accused was taken treatment at Apollo hospital as an inpatient at the time of the occurrence. The revision petitioners/accused denied the very presence and involvement in the occurrence and prayed to discharge them on these grounds. After hearing the arguments of both sides, the learned District Munsif-cum-Judicial Magistrate, Denkanikottai dismissed the discharge petition. Aggrieved over that, the revision petitioners have preferred this Revision.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent. Perused the entire materials available on record.

5. The learned counsel for the revision petitioners submitted that the second accused was suffering from severe ill-health and he was admitted in the hospital at the time of the occurrence and he has been falsely implicated in this case. The records would show that the police has not taken action on the complaint given by the first revision petitioner against the accused and acted in a bias manner. The false case has been foisted against the accused and that was not properly appreciated by the learned trial Judge.

6. The learned Government Advocate (Crl.side) appearing for the respondent submitted that the submissions made by the revision petitioners are matters of facts and they have to be proved only at the time of trial. The Court cannot take up any roving enquiry at the initial stage itself and it is right for the trial Court to dismiss the petition.

7. On perusal of the records and the averments made in the discharge petition, it is seen that the entire submissions of the revision petitioners revolve around the allegation that the revision petitioners/second accused had been taking



treatment in Apollo hospital at the time of occurrence and hence, the entire case of the prosecution itself is false. No allegations have been made as to the participation of the other accused in CrI.OP.No.20957 of 2014 for the purpose of quashing the proceedings and the same was also closed. The plea of alibi is a matter of fact and that has to be proved only before the trial Court, by producing all material facts. At the stage of framing of charges, the Court need not look into the merits of the materials produced before it by making a roving enquiry. It has been already observed that as against the other accused no specific submission has been made for justifying their prayer for discharge.

8. Under such circumstances, it is right for the learned District Munsif-cum-Judicial Magistrate, Denkanikottai, to record a finding that the matters raised by the revision petitioners have to be proved only at the time of trial. Since the discharge petition has been dismissed for the said reason, the revision deserves no merits.

9. In the result, this Criminal Revision is dismissed and the order of the learned District Munsif-cum-Judicial Magistrate, Denkanikottai made in CrI.M.P.No.2053 of 2016 in C.C.No.176 of 2013 dated 29.08.2017 is hereby confirmed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif-cum-Judicial Magistrate,
Denkanikottai.

2.-do- through Chief Judicial Magistrate,
Krishnagiri.

3.The Sub-Inspector of Police,
Kelamangalam Police Station,
Denkanikottai Taluk,
Krishnagiri District.

4.The Public Prosecutor,
Hight Court of Madras,
Chennai-104,



Copy to:

The Secretary,
The Legal Services Committee,
High Court, Madras.

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SS (CO)

PR (07/02/2022)