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Crl.O.P.No.22829 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.22829 of 2021
and Crl.M.P.Nos.12464 & 12465 of 2021

1. Gopi @ Venkata Subban
2. Ramesh
3. Kwaith Ranganathan
@ Ranganathan

...Petitioners

Vs.

1. State represented by its
The Deputy Superintendent of Police,
Thiruvannamalai,
Thiruvannamalai District.

2. M.Ravi

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records and quash the charge sheet in Crime No.231 of 2019 on the file of the respondent which was taken on file as Spl.S.C.No.23 of 2020 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai.

For Petitioners	: Mr.D.Baskar
For Respondents	
For R1	: Mr.A.Gopinath Government Advocate (Crl. Side)
For R2	: Mr. N.Naganathan



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ORDER

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This petition has been filed to quash the proceedings in Spl.S.C.No.23 of 2020 on the file of the learned Special Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai, thereby taken cognizance for offences under Sections 323, 324 & 506(ii) of IPC and Sections 3(1)(r), 3(2)(va) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Amendment Act, 2015, (hereinafter referred to as “SC/ST Act”) as against the petitioners.

2. The case of the prosecution is that the petitioners belong to Reddiar community and the second respondent belongs to Kuravan (SC) community. On 27.06.2019, at about 21.00 Hrs., aggrieved at the objection raised by the second respondent in respect of setting up of a TASMACH Shop by the second accused, they gathered in front of the second respondent's house and assaulted him with knife and caused injury. They also abused him by mentioning his caste and also threatened him with dire consequences. Hence the complaint. On receipt of complaint, the first respondent registered FIR in Crime No.231 of 2019 under Sections, 294(b), 323, 324, 506(2) of IPC and Section 3(1)(r) & 3(1)(s) of SC/ST Act. After completion of investigation, the first



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respondent filed final report and the same has been taken cognizance in Spl.S.C.No.23 of 2020 on the file of the Special Court for Trial of Cases under SC/ST (POA) Act, Thiruvannamalai.

3. The learned counsel appearing for the petitioners would submit that the second respondent is not belonging to SC/ST community and therefore, no offence is made out as against the petitioners. There was a dispute while opening TASMAL shop in the land belonging to the second petitioner. Therefore, the dispute was not based on the community of the second respondent. General public was represented by the second respondent against the TASMAL shop and as such no offence is attracted as against the petitioners under the SC/ST Act. That apart, there was a delay in lodgment of complaint. The alleged occurrence was taken place on 27.06.2019. Whereas the FIR was registered only on 09.07.2019. There was absolutely no explanation for the delay in registering the FIR. In support of his contention, he relied upon the following judgments:-

(i) 2023 LiveLaw (SC) 469 – Ramesh Chandra Vaishya Vs. The State of Uttar Pradesh & Anr.



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***(ii) Crl.A.No.1393 of 2011 dated 25.10.2021 – Ramawater Vs.
State of Madhya Pradesh.***

4. The learned Government Advocate (Crl. Side) submitted that already the trial commenced and the prosecution witnesses P.W.1 and P.W.2 were examined. Hence, he prayed for dismissal of this petition.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of records revealed that there are totally three accused in which the petitioners are arrayed as A1 to A3. There was previous enmity between the petitioners and the second respondent with regard to opening of TASMACH shop in the land belonging to the second petitioner. In fact, on 07.06.2019 itself, the second respondent represented before the District Collector along with other general public thereby requested not to give permission to open TASMACH shop in the land belonging to the second petitioner. Therefore, the second petitioner could not be able to open the TASMACH shop in his land.



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7. Due to the previous enmity, on 27.06.2019 at about 9.00 p.m., all the accused persons came to the house of the second respondent and scolded him with filthy language. The first accused attacked the second respondent with knife and abused him by using his caste name. The other accused persons also repeatedly attacked the second respondent due to which, he sustained injury. Immediately he was taken to hospital and admitted as inpatient in the government hospital. The doctor who treated the second respondent also deposed that the second respondent sustained injury and he was admitted into the hospital. Further he opined that the injuries sustained by the second respondent are simple in nature.

8. The learned counsel appearing for the petitioners relied upon the judgment reported in **2023 LiveLaw (SC) 469** in the case of ***Ramesh Chandra Vaishya Vs. The State of Uttar Pradesh & Anr.*** in which the Hon'ble Supreme Court of India held as follows :-

18. That apart, assuming arguendo that the appellant had hurled caste related abuses at the complainant with a view to insult or humiliate him, the same does not advance



the case of the complainant any further to bring it within the ambit of section 3(1)(x) of the SC/ST Act. We have noted from the first F.I.R. as well as the charge- sheet that the same makes no reference to the utterances of the appellant during the course of verbal altercation or to the caste to which the complainant belonged, except for the allegation/ observation that caste-related abuses were hurled. The legislative intent seems to be clear that every insult or intimidation for humiliation to a person would not amount to an offence under section 3(1)(x) of the SC/ST Act unless, of course, such insult or intimidation is targeted at the victim because of he being a member of a particular Scheduled Caste or Tribe. If one calls another an idiot (bewaquoof) or a fool (murkh) or a thief (chor) in any place within public view, this would obviously constitute an act intended to insult or humiliate by user of abusive or offensive language. Even if the same be directed generally to a person, who happens to be a Scheduled Caste or Tribe, per se, it may not be sufficient to attract section 3(1)(x) unless such words are laced with casteist remarks. Since section 18 of the SC/ST Act bars invocation of the court's jurisdiction under section 438, Cr.PC and having regard to the overriding effect of the SC/ST Act over other laws, it is desirable that before an accused is subjected to a trial for alleged commission of offence under section 3(1)(x), the utterances made by him in any place within



public view are outlined, if not in the F.I.R. (which is not required to be an encyclopaedia of all facts and events), but at least in the charge-sheet (which is prepared based either on statements of witnesses recorded in course of investigation or otherwise) so as to enable the court to ascertain whether the charge sheet makes out a case of an offence under the SC/ST Act having been committed for forming a proper opinion in the conspectus of the situation before it, prior to taking cognisance of the offence. Even for the limited test that has to be applied in a case of the present nature, the charge-sheet dated 21st January, 2016 does not make out any case of an offence having been committed by the appellant under section 3(1)(x) warranting him to stand a trial.”

9. He also relied upon another judgment of the Hon'ble Supreme Court of India reported in ***Crl.A.No.1393 of 2011 dated 25.10.2021*** in the case of ***Ramawater Vs. State of Madhya Pradesh***, as follows :-

“16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the



continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.

10. However, the judgment cited by the learned counsel appearing for the petitioners are not helpful to the case on hand, since there was specific allegation as against the petitioners that they intentionally went to the house of the second respondent and abused him with filthy language by using his caste name. They also attacked him. That apart, the trial has already been commenced and two prosecutions witnesses were examined. Hence, this Court is not inclined to quash the proceeding and this petition is liable to be dismissed.



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11. Accordingly, the Criminal Original Petition stands

dismissed. Consequently, connected miscellaneous petitions are closed.

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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1. The Special Judge,
Special Court for Trial
of Cases under SC/ST (POA) Act,
Thiruvannamalai,
2. The Deputy Superintendent of Police,
Thiruvannamalai,
Thiruvannamalai District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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