



CrI.A.No.984 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.984 of 2023

D.Manoharan

... Appellant

Vs.

1.The State rep. by
The Assistant Commissioner of Police,
Egmore, Chennai.

2.Senthilnathan

... Respondents

Prayer : Criminal Appeal filed under Section 14-A(2) of Scheduled Castes and the Scheduled Tribes [Prevention of Atrocities] Amendment Act, 2015 to set aside the order dated 31.07.2023 passed by the learned Principal Sessions Judge, at Chennai, Special Court under SC/ST [POA] Act in Spl.S.C.No.164 of 2023 and direct the first respondent viz., Assistant Commissioner of Police, Egmore, Chennai to register the complaint dated 11.07.2022 acknowledged in C.S.R.No.408 of 2022 dated 11.07.2022 and to investigate and to file the final report before the jurisdictional Court.



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For Appellant : Mr.A.Nagarajan
For R1 : Mr.A.Damodaran
Additional Public Prosecutor
For R2 : Mr.C.Raja

JUDGMENT

The appellant filed a complaint before the learned Principal Sessions Judge, at Chennai, Special Court under SC/ST [POA] Act under Section 200 Cr.P.C. r/w. 156(3) of Cr.P.C. to register a case against the second respondent for assaulting the appellant on 11.7.2022 when the appellant enquired the second respondent the whereabouts of the Clerk of the Personal Branch in Egmore. At that time, the second respondent though a colleague of the appellant used abusive words, knowing about the social status of the appellant called him using his caste name, assaulted him using paper weight and caused injuries to the appellant on his chest. Thereafter, the appellant was taken to Government Kilpauk Medical College Hospital where he was admitted as inpatient and took treatment from 11.07.2022 to 13.07.2022. Though a complaint was lodged on 11.07.2022 immediately after the



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occurrence and C.S.R.No.408 of 2022 was assigned, no action was taken.

Hence, the appellant filed a petition under Section 156(3) Cr.P.C.

2.Learned counsel for the appellant submitted that though the same was taken on file by the Principal Sessions Judge, at Chennai, Special Court under SC/ST [POA] Act in Spl.S.C.No.164 of 2023, the learned Sessions Judge finding that the occurrence took place not in public view, further no documents produced to make out a case under Section 323 IPC or under Sections 294(b), 298, 506(i) IPC and also finding that no offence under SC/ST Act committed, dismissed the petition on 31.07.2023. Hence, the appellant having no other alternative filed the present appeal. He would submit that the Lower Court recorded that the appellant was assaulted, got injured and took treatment as inpatient in Government Kilpauk Medical College Hospital for three days, this fact confirms that the appellant was assaulted and the Casualty Doctor recorded about the assault in the Accident Register. Further use of abusive words and threatening words were found in the complaint, thus a prima facie is made out. He further submitted that if at all the learned Sessions Judge found that calling of caste name was not in



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public view or public place, for the other offence it ought to have forwarded the complaint to the jurisdictional police since the Special Judge happens to be the Principal Sessions Judge who has got jurisdiction throughout the city of Chennai. He would further submit that the admitted case of the second respondent as could be seen from his complaint and FIR in Crime No.65 of 2023 is that on 11.07.2022 at about 12.45 p.m, there was a fight between the appellant Manoharan and the second respondent, he was assaulted, took treatment at Government Rajiv Gandhi Hospital and thereafter, he was referred to Railway Hospital where sutures were given for the injuries sustained. From the complaint of the second respondent, it is seen that occurrences took place and the second respondent is the aggressor. In view of the same, the respondent police ought to have registered both the complaints of appellant and second respondent, conducted investigation and thereafter filed final report following the Police Standing Order No.588 which was not followed in this case. Hence, he prayed for setting aside the impugned order.

3.The learned Additional Public Prosecutor submitted that on the



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complaint of the appellant, C.S.R.No.408 of 2022 assigned and on the complaint of the second respondent, C.S.R.No.410 of 2022 assigned, both the complaints were enquired and found that it is a dispute between the members of rival unions and there was some heated arguments and exchange of words. Further, finding that it is an internal issue and the offence in the complaint is not of serious in nature, both the appellant and the second respondent were advised to approach their senior authorities and the complaint was closed. He would further submit that the appellant approached the learned Principal Sessions Judge, at Chennai, Special Court under SC/ST [POA] Act and the impugned order was passed. The second respondent approached the learned XIV Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.28727 of 2022 and on the directions of the learned Magistrate vide order dated 19.9.2022, FIR registered on the complaint of the second respondent. He further submitted that if direction was given, following the Police Standing Order both the cases can be investigated and appropriate steps can be taken.

4.The learned counsel for the second respondent objected to the



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submissions made by the learned counsel for the appellant as well as the learned Additional Public Prosecutor and submitted that in this case, the appellant's complaint found to be false and that is the reason, the learned Special Judge dismissed his complaint. Further on the complaint of the second respondent, the learned XIV Metropolitan Magistrate, Egmore, Chennai finding that cognizable offence made out forwarded the complaint to the respondent to register a case and investigation is pending. Learned counsel for the second respondent filed a typed set of papers and referring to the confidential report dated 27.03.2023 submitted that the appellant and one Venkatraman were in the habit of creating trouble and picking up fight with the co-employees. He further produced the RTI report to show that what action has been taken against the appellant as well as the said Venkatraman pursuant to the registration of case in Crime No.65 of 2023 has been queried by the second respondent.

5.Considering the submissions made and on perusal of the materials, it is seen that both the appellant and the second respondent lodged a complaint to the first respondent for the occurrence took place on



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11.07.2022. Both complaints received, C.S.R.No.408/2022 and

C.S.R.No.410/2022 assigned. The appellant's complaint appears to be earlier in point of time. It is the duty of the first respondent police to have enquired both the complaints, find out the aggressor, reason for the first and to have followed Police Standing Order 588. Even the confidential report dated 27.03.2023 confirms that occurrence took place on 11.07.2022 which is the case of the appellant. According to the appellant, occurrence took place and fight arose between the appellant as well as the second respondent, hence the respondent police ought to have registered a case and a counter case. The respondent police on the other hand closed both the C.S.R. The second respondent obtained an order from the Magistrate and FIR registered against the appellant in Crime No.65 of 2023. As regards the appellant, the learned Special Judge finding no offence made out would apply to the limited extent of use of abusive words and calling upon the caste name, the occurrence on 11.07.2022 and fight between appellant and second respondent is not in dispute and the appellant getting admitted in the hospital are recorded but no finding given. Further, the appellant clearly stated in the complaint about the abusive threatening words and also the



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attack on him. It is to be noted that the second respondent made some queries through RTI with regard to what action taken against the appellant and the said Venkatraman. Both of them belong to two different Unions in the same organisation and there bound to be some rivalry between them. Since the occurrence dated 11.07.2022 is not in dispute, who is the aggressor and how the occurrence took place is a matter for investigation, only if both the complaints of the appellant [C.S.R.No.408/2022] as well as the case in Crime No.65 of 2023 are investigated and enquired following the Police Standing Orders, truth cannot be found. Hence closure of C.S.R.No.408 of 2022 is set aside and reopened.

6.In view of the above, the Inspector of Police [L&O], F-2 Egmore Police Station, Chennai is directed to register a case on C.S.R.No.408/2022, FIR to be registered. Both the case of the appellant in which C.S.R.No.408/2022 as well as the case of the second respondent in Crime No.65 of 2023 to be enquired together following the Police Standing Orders and take appropriate action. Hence, the impugned order passed by the learned Principal Sessions Judge, at Chennai, Special Court under SC/ST



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[POA] Act in Spl.S.C.No.164 of 2023 dated 31.07.2023 is set aside with the
above direction.

7.Accordingly, the criminal appeal stands allowed.

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Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
cse



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To

- 1.The Assistant Commissioner of Police,
Egmore, Chennai.
- 2.The Principal Sessions Judge,
Special Court under SC/ST [POA] Act
Chennai.
- 3.The Inspector of Police [L&O],
F-2 Egmore Police Station,
Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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