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CrI.R.C.No.1821 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM :

**THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA**

**CrI.R.C.No.1821 of 2023**

**and**

**CrI.M.P.No.17352 of 2023**

Sudhakar @ Tailor Sudhagar

... Petitioner

Vs.

Station House Officer,  
CBI/SCB/Chennai  
RC No.9(S)/2011

... Respondent

**PRAYER :** Criminal Revision Petition is filed under Section 397 and 401 of Criminal Procedure Code, to set aside the order of return of the petition in CrI.M.P.No.124 of 2023 in S.C.No.284 of 2014 dated 22.08.2023 on the file of the learned I Additional District and Sessions Judge, Tindivanam.



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For Petitioner : Mr. R. Balaguru Swamy

For Respondent : Mr.K.Srinivasan,  
Special Public Prosecutor(CBI)

### **ORDER**

The Criminal Revision Case has been filed seeking to set aside the order of dismissal passed in CrI.M.P.No.124 of 2023 in SC No.284/2014, dated 22.08.2023. on the file of the learned I Additional District and Sessions Judge, Tindivanam, dismissing the petition filed under Section 227 of Cr.P.C seeking to discharge the petitioner from the charges to be framed against him.

2. The case of the petitioner/A6 is that the petitioner is facing charges for the offences under Sections 120 (b), 147, 148, 323, 324, 302 & 506 (ii) IPC. The original complaint was filed against one Ramadass and 15 others. The name of the petitioner did not find place in the First Information Report. However, he has been intentionally added as one of the accused in the case without any specific overt act against him. The petitioner was not present at the scene of occurrence. He has no knowledge or involvement in the offence and he



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has no enmity with the de facto complainant. No identification parade was conducted when the petitioner was in the prison and that no witnesses have spoken about his presence in the place of occurrence. There is no ground to frame charges against the petitioner, thereby seeks to discharge him from the criminal case.

3. The Trial Court, after enquiry finding that there are materials against the petitioner for framing charges, had dismissed the petition. Against which, the present petition has been filed.

4. The learned counsel for the petitioner would submit that though in the 161 Cr.P.C. statement recorded by the CBI, one Sekar (LW21) alleged to have seen the occurrence from the terrace, he had not mentioned the name of the petitioner as having involved in the offence. He would further submit that the alleged occurrence said to have taken place on 08.05.2006 at 9.30 p.m. One K.Sekar S/o. Kandasamy has been examined as LW.21. In his original statement dated 26.11.2011 recorded under Section 161 Cr.P.C., he had stated that he had seen the incident from the nearby terrace, and also stated that he had



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seen 3 persons in the place of occurrence. He had further stated that he was able to identify one N.R. Raghu and that he was not able to identify two other persons. He also stated that he has not seen them anywhere prior to the incident. Subsequently, a further statement has been recorded by the respondent at Chennai, on 30.03.2012, where the witness is stated to have identified the petitioner and two other persons through photo identification and thereby making the case of the prosecution suspicious and doubtful. Notwithstanding the same, the Trial Court, without properly appreciating the materials, has dismissed petition, against which, the present revision has been filed.

5. The respondent has filed a detailed counter before this Court. The relevant paragraph of the counter extracted herein:

“ ...3. It is submitted that the case in Rc.09(S)/2011/CBI/SCB/Chennai was registered by CBI on 18.11.2011 in pursuance of the orders of Hon'ble High Court of Judicature at Madras in W.P.No.4183 of 2011 and in M.P.No.01 of 2011 filed by Shri C.V.Shanmugham and CBI, SCB, Chennai took over the investigation of Tindivanam, Roshanai Police Station Crime No.164 of 2006 and re-registered as Crime No.9(S)/2011 u/s.147, 148, 302, 307, 506(ii), 323, 324, 120-B and 427 IPC.



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4. That this case is related to murder of one Muruganantham and in this connection, crime No.164 of 2006 was registered by Roshanai Police Station, Villupuram District. The allegations in brief mentioned in the FIR is that there was political enmity and anger between PMK founder Dr. Ramadoss and the complainant shri C.V.Shanmugam, who was the minister for Education and Commercial tax, Government of Tamil Nadu. The accused persons openly spoke against the complainant in a life-threatening manner during various election campaign meetings held during the Assembly Election 2006, in which the complainant was contesting against Shri N.M.Karunanidhi of PMK(A2) in Tindivanam Assembly Constituency. Shri Srinivasan (A1), threatened the party workers of complainant not to work for the complainant by saying that his brother fixed date for the complainant. The accused persons conspired with each other and in furtherance to the said criminal conspiracy, on 08.05.2006 at around 21.30 hours, the accused persons sent hired criminal elements led by N.R.Raghu and N.M.Karunanidhi(A2), who attacked the complainant and his men with dangerous weapons in front of the complainant's house at Mottayan street, Tindivanam, in which one Muruganantham, who tried to save the life of the complainant, died and others were injured. The accused persons also caused damage to the properties of the complainant.

5. That the investigation conducted by CBI revealed that



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*the accused persons Srinivasan(A1) and others entered into criminal conspiracy and arranged attackers from Nallavur area and Villupuram and carried out the attack on 08.05.2006 at around 21.30 hours in front of the house of the complainant. This was done in retaliation to the incident in Avvaiyarkuppam village, in which late N.R.Raghu was manhandled by the villagers in the presence of Shri Radhakrishnan, brother of the de-facto complainant. In this regard Final Report u/s.173 Cr.P.C was filed before the Learned Chief Judicial Magistrate, Chengalpattu on 02.04.2012 against Srinivasan(A1) and 21 others including the petitioner/accused A6 u/s.120-B, 147, 148, 302, 307, 323, 324, 427 and 506(ii) IPC and Section 3 of Tamil Nadu Public Property (prevention of Damage & Loss) Act 1992.*

*6. It is also further revealed during CBI investigation that, Roshanai Police during their investigation manipulated the records of investigation and made false arrest and false seizure in order to help the real culprits without taking efforts to identify and arrest the remaining attackers and they were shown in the investigation record as 'outsiders'. Shri P.Kumar, Dy, Superintendent of Police, filed charge sheet in this case on 29.12.2007 before the Ld. Judicial Magistrate-I, Tindivanam against 15 accused persons including the three falsely implicated accused persons, by giving clean chit to the FIR named accused without even examining them. The further investigation conducted*



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by CBI revealed that Shri Kumar (A3) in pursuance of criminal conspiracy hatched with other accused viz. Dhanaraju @ Dhanraj(A1), Sivakumar(A2) and Anbu Periasamy(A4) willfully omitted to charge sheet the real culprits and thereby they committed offences punishable u/s.120-B r/w. 193, 194, 195, 196, 201, 466 and 471 IPC and accordingly the charge sheet was filed.(which was later quashed by Hon'ble High Court of Madras in 2018).

7. It is also relevant to add here that during the course of investigation, 12 witnesses who revealed crucial details about the commission of offence in this case, have given their statement before learned Judicial Magistrate-II, Kanchipuram & Ltd. Munsif cum JM Uthiramerur u/s. 164(5) Cr.PC implicating the accused persons including the petitioner/accused V Sudhakar (A6). Further, the confession statement of Ramesh(A8) was also recorded by learned XVII Metropolitan Magistrate, Saidapet under Section 164(1) Cr.P.C, wherein he has disclosed the whole circumstances within his knowledge including the involvement of the petitioner. As per final report, the involvement of the petitioner/A6 has been stated elaborately for the offences under Section 120(B), 147, 148, 323, 324, 427 and 506(ii) , 302 IPC and under Section 3 of TNPPDL Act. The role of the petitioner is that of committing rioting an murder. The involvement of the petitioner has been found in the course of investigation. Further, during the



*course of investigation, 2 more accused persons S.Gopi(A13) and S Suresh(A20) confessed their role in the offence and also others, before the independent witnesses and their confessions were also recored in compact disc which has already been produced before the learned Chief Judicial Magistrate, Chengalpattu Court and included as one of the material object while filing charge sheet.*

*8. It is fuhrer submitted that from the oral and documentary evidence collected during the investigation established the role played by the petitioner/accused Shri V.Sudhakar @ Tailor Sudhakar(A6) in this sensitive rioting & murder case. The witnesses LW 21 K.Sekar, LW22 P.Senthilkumar would expressly state the overt act of the petitioner. Thus, the involvement of the petitioner/Accused V.Sudhakar has been established through statements of witnesses and material objects collected during the course of investigation. “*

6. Mr. K. Srinivasan, learned Special Public Prosecutor (CBI) would submit that there are ample materials made available against the petitioner. LW.21Sekar , S/o. Kandasamy, who is an eye-witness to the occurrence, has stated about 3 persons have involved in the occurrence. Though he has not disclosed the identity of the person at the time of recording of the 161 Cr.P.C. on 26.11.2011, during his further investigation, which was recorded on



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30.03.2012, he has identified the petitioner and stated about his involvement in the occurrence. He would submit that the trial Court finding that the evidence of LW21 K. Sekar is available to show the presence of the petitioner as also his involvement in the offence has rightly dismissed the application. He further submitted that at the time of framing the charges, the Trial Court cannot conduct mini trial or roving enquiry and what is to be seen is that whether there are materials to frame charges against the accused. He would further submit that the Trial Court has rightly dismissed the application.

7. He would further submit that a statement has also been recorded from one R. Ramesh, who is arrayed as A8, before the VIII Metropolitan Magistrate, Saidapet, Chennai under Section 164(1) Cr.P.C and in that confession, the said Ramesh had spoken about the involvement of the petitioner in the occurrence. He has also spoken about the petitioner's participation as well as conspiracy and thus, there are ample materials against the petitioner and prayed for dismissal of the present revision.

8. This Court had considered the matter in the light of the



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submissions made by the learned counsel on both sides and perused the materials available on records carefully.

9. It is the case of the petitioner that there are no materials as against him for framing of charges. It is the claim of the petitioner that in the initial statement recorded under Section 161 Cr.P.C. from one K.Sekar S/o. Kandasamy, his name was not mentioned. It is seen from the records that later he identified the petitioner during further enquiry. Further there is also materials in the form of statement recorded from one R.Ramesh under Section 164 (1) Cr.P.C. before the learned Metropolitan Magistrate in which the petitioner was stated to have involved in the offence and also conspired with the other accused to commit the offence. As stated above, this Court at this stage has to see whether materials are available for framing charges or not and this Court cannot conduct a mini trial or roving enquiry. In such circumstances, in the light of the materials available on record, the trial court has rightly refused to discharge the petitioner from criminal prosecution. I do not find any infirmity in the order passed by the learned trial judge.

10. Further, in the status report filed by the respondent, it is stated



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that the alleged occurrence is said to have taken place on 08.05.2006 and the case was registered in Crime No.164 of 2006 on the file of Roshanai Police Station, Tindivanam. Further, the case has been transferred to the case of CBI on the basis of the order passed writ petition No. 4183/2011 and thereafter the case was taken up for investigation and the final report was filed before the learned CJM, Chengalpet on 02.04.2012 against 20 accused. Later it was committed to ADJ- I, Tindivanam for trial . Further, it is also pointed out that the accused, are adopting novel techniques one after other and has been absconding. Further, the accused are also attempting to protract and delay the trial and they are preventing the respondent from conducting the trial.

11. In view of the above, this Court is inclined to dismiss the petition, however, having seen that the matter is pending from the year 2014, this Court is inclined to direct the learned Trial judge to complete the trial as expeditiously as possible, preferably within a period of 9 months. Though the concept of fair trial is applicable to the petitioner/accused, it is also equally applicable to the victims of the crime.



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12. In the result, this Criminal Revision stands dismissed. Trial court is directed to complete the trial as expeditiously as possible, preferably, within a period of 9 months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

**16.11.2023**

Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

mrp

To

1. I Additional District and Sessions Court,  
Tindivanam.
2. The Station House Officer,  
CBI/SCB/Chennai  
RC No.9(S)/2011
3. The Public Prosecutor,  
High Court of Madras.

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**A.D.JAGADISH CHANDIRA, J.**

mrp

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and Crl.M.P.No.17352 of 2023**

**16.11.2023**