



Crl.R.C(MD)No.841 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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07.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.841 of 2023
and
Crl.M.P(MD)No.11246 of 2023

S.Dingston

.. Petitioner

Vs.

The State through
The Inspector of Police,
Anjugramam Police Station,
Kanniyakumari District.
(Crime No.24 of 2019)

.. Respondent

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order passed in Crl.M.P.No.108 of 2022 dated 14.10.2022, in S.C.No.44 of 2021, on the file of the learned I Additional Subordinate Court, Nagercoil, Kanniyakumari District and set aside the same.

For Petitioner : Mr.G.Aravinthan

For Respondent : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)



Crl.R.C(MD)No.841 of 2023

ORDER

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This Criminal Revision Case has been filed against the order passed in Crl.M.P.No.108 of 2022 dated 14.10.2022 in S.C.No.44 of 2021 on the file of the learned I Additional Subordinate Court, Nagercoil, Kanniyakumari District.

2.The petitioner is facing the trial in the above S.C.No.44 of 2021 on the file of the learned I Additional Subordinate Court, Nagercoil, Kanniyakumari District for the alleged offence under Section 307 of IPC.

3.The case of the prosecution is that on 13.01.2019 at about 11.30 a.m., when the complainant and his son were waiting for prayer near the church, the petitioner attacked the complainant's son on his forehead and hence, a complaint was given by the complainant. The respondent police registered a case in Crime No.24 of 2019 for the offence punishable under Section 307 of IPC and filed the final report and the same was taken on file in S.C.44 of 2021 by the learned I Additional Subordinate Court, Nagercoil, Kanniyakumari District.



Crl.R.C(MD)No.841 of 2023

WEB COPY

4.The petitioner herein filed a discharge petition in Crl.M.P.No.108 of 2022, on the ground that there is a delay in registering the case and the injuries are not grievous, to frame the charges under Section 307 of IPC. The same was dismissed, vide, impugned order dated 14.10.2022. Challenging the same, the petitioner filed this Criminal Revision Case.

5.The learned counsel for the petitioner reiterated the above stand taken before the Court below and submitted that the occurrence took place on 13.01.2019 and the FIR was registered only on 17.01.2019 and there was no explanation and without grievous injuries, offence under Section 307 of IPC is not made out.

6.On the other hand, the learned Additional Public Prosecutor submitted that the injuries are grievous in nature and all the ingredients under Section 307 of IPC are made out. The delay in filing the FIR is a matter for trial. He would further submit that the case was posted for examination of the witnesses on 25.08.2023. Hence, he seeks to dismiss this case.



Crl.R.C(MD)No.841 of 2023

7.This Court considered the rival submissions made on either side and perused the materials available on record.

8. To constitute the offence under Section 307 of IPC, it is not necessary that the injured should sustain grievous injury. The Hon'ble Supreme Court in the case of ***State of M.P. v. Kanha, reported in (2019) 3 SCC 605 at page 610*** has held as follows:

18... It must be noted that Section 307 IPC provides for imprisonment for life if the act causes "hurt". It does not require that the hurt should be grievous or of any particular degree.

9.The delay in filing the FIR is matter of explanation which has to be furnished by the investigating officer and the acceptance of the said delay by the trial Court is matter of appreciation. Therefore, this Court is not inclined to address the said factual aspect in this case. Accordingly, this Criminal Revision Case stands dismissed with the following directions:

- (i)The personal appearance of the petitioner is hereby dispensed with
- (ii)The case is posted for examination of L.W.1 to L.W.8. The learned trial Judge is hereby directed to dispose of the case within a period of two



Crl.R.C(MD)No.841 of 2023

months from the date of receipt of a copy of this order.

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(iii)The petitioner is hereby directed to co-operate with the trial by cross examining the witnesses on the date of production of witnesses.

Consequently, connected Criminal Miscellaneous petition is closed.

07.08.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn

To

- 1.The Inspector of Police,
Anjugrammam Police Station,
Knniyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C(MD)No.841 of 2023

K.K.RAMAKRISHNAN, J.

sbn

CrI.R.C(MD)No.841 of 2023
and
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07.08.2023