



WEB COPY



Crl.RC No.254 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.254 of 2023

and

Crl.M.P.Nos.2047 and 2048 of 2023

1.Subha @ Subhakar

2. Raja @ Kungumaraja

...Petitioners/Accused 2 and 3

Vs.

1.The State rep. by
The Inspector of Police,
Pollachi Town West Police Station,
Pollachi.
(Crime No.36 of 2011)

2. Jeyaram
Inspector of Police,
Pollachi Town West Police Station,
Pollachi.

...Respondents/Respondents

*[R2 Impleaded as per order dated 26.06.2023 in
Crl.M.P.No.8877/2023 in Crl.R.C.No.254 of 2023]*



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PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., to call for the records and set aside the order dated 20.01.2023 passed in Crl.M.P.No.498 of 2022 by the Sessions Court for Trial of Bomb Blast Cases at Coimbatore in S.C.No.119/2022 pending trial before the Sessions Court for trial of Bomb Blast Cases at Coimbatore.

For Petitioners : Ms.M.Kruthika

For Respondents : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

ORDER

The Criminal Revision Petition challenges the dismissal of the petitioners' application filed for discharge before the learned I Additional District Judge, Coimbatore and Sessions Judge (FAC), Sessions Court for Trial of Bomb Blast Cases, Coimbatore.

2. It is the case of the prosecution that based on secret information, the respondent had searched the house of one Thambi @ Rajasekar (A1), wherein they found 50 kgs of PDS rice (12 bags), a green colour TVS XL bearing Reg.No.TN-38-S-2211 and seven country bombs, which were kept illegally and the same was seized under the cover of Mahazar.



3.It is further the case of the prosecution that based on the confession of A1, which was recorded in the presence of L.W.1 and L.W.2, the petitioners/A2 and A3 were arrested and on further investigation, a final report was filed against the petitioners/A2 and A3 and two others for the offences under Section 9 of B(1)(b) of the Explosive Substances Act, 1884 and Sections 5 and 6 of the Explosive Substances Act, 1908.

4. The petitioners/A2 and A3 sought for discharge before the trial Court on the ground that there are no sufficient grounds to proceed against the petitioners. The said petition was opposed by the respondents on the ground that sufficiency and probative value of the evidence cannot be considered at the stage of charge framing and the respondents should be allowed to prove their case during the trial.

5. The learned Judge dismissed the discharge petition, holding that a *prima facie* case is made out; and that the prosecution had relied upon the confession of A1 and the question as to whether that confession can be accepted or not cannot be gone into at the stage of charge framing and



dismissed the petition for discharge.

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6. Ms.M.Kruthika, the learned counsel for the petitioners/A2 and A3, would submit that there are no sufficient grounds for framing the charge against the petitioners; that even according to the learned Judge and the prosecution, the only evidence available is the confession of a co-accused and in the absence of any other evidence, the charges against the petitioners cannot be framed and prayed for setting aside the impugned order.

7. Mr.S.Udaya Kumar, the learned Government Advocate (Crl. Side) for the respondents, *per contra*, submitted that L.W.1 and L.W.2 are witnesses to the confession and have spoken about the confession of A1, which implicates the petitioners and therefore, the issue as to whether the petitioners are involved in the offence has to be adjudicated only by the trial Court.

8. On perusal of the impugned order and the counter filed by the respondents, it is seen that the only material relied upon by the prosecution is the confession of A1 which allegedly implicate the petitioners. It is stated that the confession was witnessed by L.W.1 and



L.W.2 and they have spoken about the confession of A1. Their evidence relating to the confession has no evidentiary value. Admittedly, nothing was recovered from the petitioners.

9. The reasoning of the learned Judge that the question as to whether the confession can be relied upon has to be decided only at the stage of trial is not in accordance with law. It is needless to say that the confession of an accused is inadmissible except the information that leads to a discovery of a fact. Therefore, in the absence of any other acceptable material, it cannot be said that there is a ground to frame charge. Hence, this Court is of the view that there is no sufficient ground to frame charges against the petitioners for the offences alleged against them and therefore the impugned order is liable to be set aside.

10. Hence, the order passed by the learned I Additional District Judge, Coimbatore and Sessions Judge (FAC), Sessions Court for Trial and Bomb Blast Cases, Coimbatore in C.M.P.No.498 of 2022 dated 20.01.2023 is set aside and the petitioners are discharged from S.C.No.119 of 2022 on the file of the learned Additional District Judge, Coimbatore and Sessions Judge (FAC), Sessions Court for Trial and



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Bomb Blast Cases, Coimbatore.

WEB COPY 11. Accordingly the Criminal Revision Case stands allowed.

Consequently, the connected Miscellaneous Petitions are closed.

18.12.2024

Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No.

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To

1. The I Additional District Judge, Coimbatore
and Sessions Judge (FAC),
Sessions Court for Trial of Bomb Blast Cases,
Coimbatore.

2. The Inspector of Police,
Pollachi Town West Police Station,
Pollachi.

3. Mr. Jeyaram
Inspector of Police,
Pollachi Town West Police Station,
Pollachi.

4. The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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