



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.A.No.787 of 2024

1. A.Suresh

2. A.Annadurai

3. T.Chitra

...Appellants

Vs.

1. The Deputy Superintendent of Police,
Kallakurichi Division, Kallakurichi-606 202.

2. The Inspector of Police,
Kachirayapalayam,
Kachirayapalayam – 606 207.

3. M.Kavitha

... Respondents

Prayer: The Criminal appeal has been filed under Section 378 of Code of Criminal Procedure to call for the records and set aside the order passed in Crl.MP.No.386 of 2021 in Spl. S.C.No.08/2020, on the file of the Sessions Judge, Special Court for Exclusive Trial of Case.

For Appellants : Mr.Vai. Shanmugam

For Respondents: Mr.G.V.Kasthuri

Additional Public Prosecutor RR1 & 2

JUDGMENT

This Criminal appeal has been filed to quash the order passed in



Sessions Judge, Special Court for Exclusive Trial of Case.

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2. The Appellants have been implicated for the offence under Sections 498A and 494 of IPC and Section 3(1)(s) and 3(1)Z of the SC and ST Act 2015 and the same was taken on file in in Spl.SC.No.8 of 2020, in which, the appellants filed a petition u/s. 239 of Cr.P.C. in CrI.MP.No.386 of 2021, seeking to discharge them from the charges framed against them, which was dismissed by the trial, vide impugned order dated 23.11.2022. Challenging the same, the appellants has filed the present appeal.

3. The learned counsel for the appellants submitted that the appellants have implicated not based on the evidence. Though the prosecution witnesses named these appellants, the statements recorded under [Section 164](#) of Cr.P.C., do not reveal any offence. Therefore, the statements are vague and it looks artificial and unbelievable. On consideration of the records and documents submitted by the prosecution, there are no sufficient grounds for proceeding against these appellants in this case and hence, the appeal has to be allowed.



4. The learned Additional Public Prosecutor appearing for the State submitted that based on the complaint lodged by one Kavitha, the respondent police filed charge sheet as against the appellants. The first accused introduced himself as an orphan and he proposed to marry her. They have married with the consent of the parents of Kavitha in the year 2013. Subsequently, the first accused revealed the truth that he is not an orphan and he separated from Kavitha as he belongs to Gongu Vellalar community. Further, the first accused married with one Ponsaranya. When the defacto complainant heard about the marriage, the accused and his family members replied that she cannot be accepted because she belongs to Hindu Adidravida Arunthathiyar Community. Therefore, from the oral and documentary evidence produced with the charge sheet filed under [Section 173](#) of Cr.P.C., there are prima facie materials against these appellants and the trial Judge, has considered all the aspects in a proper manner and dismissed the discharge petition filed by the appellants and the said order does not warrant any interference of this Court.

5. On a careful perusal of the charge sheet filed under [Section 173](#) of Cr.P.C. along with other material documents and dismissal order



of the learned Principal Sessions Judge would show that there are incriminating materials to proceed against the appellants and other accused. In the above facts and circumstances, at this stage, the trial Court is not expected to conduct a roving enquiry on the material on records.

6. Heard both sides and perused the materials available on record.

7. At the stage of framing of charge, what the Court has to see is whether the material brought on record would reasonably connect the accused with the crime. No more is required to be inquired into. Only prima facie case is to be seen, the question whether the charges have been proved or not can be determined only after the evidence is recorded in this case. For framing of charge, the Judge has to consider judicially whether on consideration of the materials on record it can be said that the accused can be reasonably connected with the offence and that there is a reasonable probability or chance of the accused being found guilty. If the answer is affirmative, the Judge will be at liberty to frame a charge against the accused. No weight to be attached to the probable defence of the accused. In a case instituted upon a police report, the Court is required at the time of framing of the charges, to confine its attention to



documents referred to under [Section 173](#) of Cr.P.C., only. The Court is not justified in referring to documents relied on by the accused when their authenticity and veracity are yet to be gone into. The documents filed by the defence cannot be considered in framing charge.

8. Further, it is well settled principles of law that at the time of considering the discharge petition before framing of charges, the Court ought to have seen whether there is any prima-facie case made out for framing of charge and the Court need not to conduct any roving enquiry regarding the oral and documentary evidence collected by the prosecution. The trial Judge, considering all the materials collected during the investigation found that there is prima facie case as against the appellants to frame the charges. The validity and admissibility of the oral and documentary evidence can be done only after the trial and not at the stage of framing of charges and at the time of framing of charges, the probative value of the material on record cannot be gone into. Therefore, this Court is of the view that the trial Court has correctly come to the conclusion that there is prima facie case made out as against the appellants to frame charges and at this stage, there is no reason to interfere with the order passed by the trial Court.



M.DHANDAPANI,J.

Rli

9. Accordingly, this Criminal appeal is dismissed.

24.06.2024

Index : Yes/No

Speaking order/non speaking order

rli

To

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kachirayapalayam,
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3. The Public Prosecutor,
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