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Crl.A.No.1038 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.A.No.1038 of 2024

Union of India represented by its
The Superintendent of Police,
National Investigation Agency,
No.10, Millers Road, Purasaiwakkam,
Chennai – 600 010.
[RC.No.02/2023/NIA/CHE]

... Appellant

Vs.

1.Shahabuddin Hossain @ Md.Sahab Uddin (A-1)
2.Munna @ Noor Karim @ Nur Karim (A-5)
3.Babu SK @ Babu Shoriful @ MD Soriful Babumiya (A-2)

... Respondents

PRAYER: Criminal Appeal filed under Section 21 of National Investigation Act, praying to set aside the order passed by the learned Special Judge for NIA cases (Special Court for Bomb Blast Case) Poonamallee, Chennai in Memo in SR.No.839/2024 in RC-02/2023/NIA/CHE (SPL SC No.02/2024) dated 9th Day of July, 2024.

For Appellant

: Mr.R.Karthikeyan
Special Public Prosecutor



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JUDGMENT

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

Under assail is the Judgment dated 09.07.2024 in Memo in SR.No.839/2024 in R.C.No.02/2023/NIA/CHE.

2. Under the provisions of National Investigation Agency Act, 2008, actions were initiated by the Chief Investigation Officers/Superintendent of Police, National Investigation Agency.

3. Admittedly, one charge sheet *vide* charge no.02/2024 was filed against one Babu SK @ Babu Shoriful @ MD Soriful Babumiya for the offences punishable under Sections 370 (3), 465, 468 and 471 of IPC, Sections 14, 14A and 14B of Foreigners Act, Section 12 (1-A) of the Passports Act, 1967 and Section 3 of Passport (Entry into India) Act, 1920 and the Rules made thereunder i.e. Rule 3 r/w Rule 6 of Passport (Entry into India) Rules, 1950.

4. Another charge sheet *vide* charge no.03/2024 has been filed against Shahabuddin Hossain @ Md.Sahab Uddin (A1) and Munna @



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Noor Karim @ Nur Karim (A5) for the offences punishable under Section 465 and 471 IPC, Sections 14 & 14A of Foreigners Act and Section 3 of the Passport (Entry into India) Act, 1920 and the rules made thereunder i.e. Rule 3 r/w Rule 6 of Passport (Entry into India) Rules, 1950.

5. The Trial Court made a finding in the order impugned that since Shahabuddin Hossain @ Md.Sahab Uddin (A1) and Munna @ Noor Karim @ Nur Karim (A5) are victims of Babu SK @ Babu Shoriful @ MD Soriful Babumiya (A2), two separate charge sheets were filed. Accordingly, one sessions case number Spl.SC.No.02 of 2024 for RC.02/2023/NIA/Che was allotted.

6. Challenging the said action of the Trial Court, Mr.R.Karthikeyan, the learned Special Public Prosecutor appearing on behalf of the appellant/National Investigation Agency would submit that the nature of the charge sheet is entirely different. The allegations are also unconnected. In respect of the first charge sheet *vide* charge no.02/2024, Babu SK @ Babu Shoriful @ MD Soriful Babumiya is the



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accused. However, in charge No.03/2024, Mr.Shahabuddin Hossain @ Md.Sahab Uddin (A1), who is the victim in charge No.02/2024. The allegation against Mr.Shahabuddin Hossain @ Md.Sahab Uddin in Charge Sheet *vide* charge No.03/2024 is that he has forged Government Documents including Passport, Aadhar Card etc., and illegally stayed in India. Therefore, the allegations against Mr.Sahabuddin Hossain @ Md.Sahab Uddin (A1) in charge sheet No.03/2024 is noway connected with the allegations against Babu SK @ Babu Shoriful @ MD Soriful Babumiya in charge sheet No.02/2024.

7. Since the charges are distinct and different, the trial court ought to have allotted two separate Sessions Case Numbers for the purpose of conducting trial. In the event of conducting trial under the same Sessions Case Number, it will cause prejudice to the prosecution to establish the offences against the accused persons in respect of two different charge sheets in Charge Nos.2 and 3 of 2024.



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8. Since the nature of accusations are different and charges are framed with distinct allegation, the order impugned passed by the trial court by invoking Section 223 of Criminal Procedure Code is not in consonance with the provisions and scope of the facts relating to this case. Thus, we are inclined to interfere.

9. In view of the facts and circumstances, the order impugned dated 09.07.2024 in Memo in SR.No.839/2024 in R.C.No.02/2023/NIA/CHE is quashed and the Special Court under the National Investigation Agency Act, 2008 is directed to allot two Sessions Case Numbers for Charge Sheet No.02/2024 and Charge Sheet No.03/2024 and thereafter take cognizance separately and accordingly proceed with the trial by following the procedures as contemplated.

10. Accordingly, this Criminal Appeal stands **allowed**.

[S.M.S., J.] [V.S.G., J.]
13.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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