



Crl.R.C.No.1499 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1499 of 2024 and
Crl.M.P.Nos.12554 & 12555 of 2024

Saraswathi

... Petitioner

Vs.

State Rep. by Inspector of Police,
K.R.P Dam Police Station,
Krishnagiri District.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 & 442 of BNSS, to set aside the order passed by the learned Additional Sessions Judge, Krishnagiri, Krishnagiri District passed in Crl.M.P.No.3847 of 2023 in S.C.No.183 of 2023 dated 06.06.2024.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.R.Vinothraja,
Government Advocate (Crl. Side)



Crl.R.C.No.1499 of 2024

WEB COPY

ORDER

The petitioner/A3 who is facing trial along with her son/A1 and husband/A2 in S.C.No.183 of 2023 has filed discharge petition before the learned Additional District Judge, Krishnagiri (Trial Court) under Section 227 Cr.P.C in Crl.M.P.No.3847 of 2023 in S.C.No.183 of 2023. The Trial Court by impugned order, dated 06.06.2024 dismissed the discharge petition. Against which, the present petition.

2.The learned counsel for the petitioner submitted that the petitioner is the mother Sathishkumar/A1 and wife of Balakrishnan/A2, based on the confession of A1 and A2, she is implicated in this case and there is no iota of evidence against the petitioner. The case projected against the petitioner and others is that the petitioner's husband/A2 is the son of Kannammal. Kannammal is the daughter of Poovan through Poovan's first wife Govindhammal. The deceased Palani is the son of Poovan and Poovan's second wife Pachaiaammal. There is some dispute in dividing ancestral property more particularly two cents of land. Since the deceased Palani was



raising objection for Balakrishnan and his family members enjoying the property in dispute, Balakrishnan his two sons Sathishkumar, Tamizharasan/Juvenile, his wife Saraswathi/petitioner all conspired together and planned to do away the deceased Palani. On 30.11.2022, at about 08.30 a.m when the deceased Palani was riding his two wheeler, Balakrishnan/A2 stopped the vehicle and Sathishkumar/A1 took knife hidden on his back and assaulted the deceased Palani all over his body. The eye witness Thirupathi came there to rescue, but unable to save the deceased Palani and the accused ran away from the scene of occurrence. This is the only eye witness to the alleged occurrence. After the alleged occurrence, the eye witness Thirupathi informed Muthu wife of Palani about the incident who lodged the complaint. In the complaint and FIR, the name of the petitioner not found and she was not present in the scene of occurrence at the time of alleged occurrence, but the petitioner arrayed as accused on the confession statements of A1 and A2. None of the other witnesses are even whispered anything against the petitioner. The Trial Court without considering the same, dismissed the discharge petition mechanically.



WEB COPY

3.The learned Additional Public Prosecutor appearing for the respondent Police filed counter, referred to the confession statements of A1 and A2 and submitted that there was long brewing dispute in sharing ancestral property. Balakrishnan/A2 along with the petitioner/A3 and his two sons planned to do away the deceased Palani since he was obstacle in enjoying the property which they had encroached upon. Pursuant to the conspiracy, Sathishkumar/A1 intercepted the deceased Palani when he came in his two wheeler, Balakrishnan/A2 took knife from his back, the Juvenile caught hold of the two wheeler and thereafter, Sathishkumar/A1 caused multiple cut injuries on the deceased which was witnessed by LW2/Thirupathi. The conspiracy hatched in secrecy inside the house of the accused, hence there is no direct evidence. He further submitted that the confession statements of A1 and A2 are clear and categorical that all the three accused and Juvenile conspired and planned to do away the deceased Palani. The confession statements of two accused coupled with the dispute over the property and doing away the deceased Palani on the same day would prove that the petitioner conspired with the other accused in



Crl.R.C.No.1499 of 2024

commission of offence. Hence, the contention of the petitioner cannot be considered at this stage. Added to it, the conspiracy cannot be direct and it can be inferred and confirmed only at the end of trial on recording evidence and materials. Hence, strongly opposed the revision.

4.Considering the submissions and on perusal of the materials, it is seen that the petitioner arrayed as accused on the charge of conspiracy. It is well settled that there can be no direct evidence for conspiracy and the conspiracy are hatched in secrecy. In the absence of direct evidence, the conspiracy has to be inferred from the circumstances. This inference can be made only on the evidence recorded. At this stage, this Court cannot exclude the role of the petitioner totally. Hence, this Court is not inclined to interfere with the well reasoned impugned order, dated 06.06.2024 in Crl.M.P.No.3847 of 2023 passed by the learned Additional Sessions Judge, Krishnagiri. Accordingly, this criminal revision case stands dismissed.



Crl.R.C.No.1499 of 2024

5.It is made clear that the observations made herein is only for the purpose of disposal of the present criminal revision case. The Trial Court shall decide the case on its own merits uninfluenced with the order of this Court. Consequently, connected miscellaneous petitions are closed.

14.10.2024

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

vv2

To

- 1.The Additional District Judge,
Krishnagiri.
- 2.The Inspector of Police,
K.R.P Dam Police Station,
Krishnagiri District.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.R.C.No.1499 of 2024

M.NIRMAL KUMAR, J.

vv2

CrI.R.C.No.1499 of 2024

14.10.2024