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CRL.O.P.No.529 of 2023 in
CRL.A.SR.No.54749 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRL.O.P.No.529 of 2023

in

CRL.A.SR.No.54749 of 2022

The Inspector of Police,
Palacode Police Station,
Dharmapuri District.
[Cr.No.315 of 2016]

... Petitioner

Vs.

1.Govindaraj

2.Gopal

3.Sasikumar

... Respondents

Prayer: Criminal Original Petition is filed under Section 378(3) of Criminal Procedure Code, pleaded to grant leave to file an appeal to this Court against the acquittal judgment passed in the Learned Additional District and Sessions Judge, Dharmapuri District in S.C.No.21 of 2017 dated 27.10.2021.



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For Petitioner : Mr.S.Raja Kumar
Additional Public Prosecutor

For Respondents : Mr.K.Ethirajalu

ORDER

[Order of the Court was made by **S.M.SUBRAMANIAM, J.**]

The present criminal original petition has been instituted by the Inspector of Police, Palacode Police Station, Dharmapuri to grant leave to file an appeal against the acquittal judgment passed by the learned Additional District and Sessions Judge, Dharmapuri in SC.No.21 of 2017 dated 27.10.2021.

2. Heard the learned Additional Public Prosecutor appearing on behalf of the petitioner and the learned counsel for the respondents.

3. The learned Additional Public Prosecutor would submit that the circumstantial evidence established by the prosecution are not considered by the Trial Court. The prosecution though proved chain of events lead to commission of offence, the Trial Court failed to appreciate those evidences.



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Thus, the present criminal original petition seeking leave has been instituted.

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4. Mr.K.Ethirajalu, learned counsel appearing on behalf of the respondents would oppose by stating that as per the prosecution, it is case of circumstantial evidence and even circumstances are not established to the satisfaction of the Trial Court. Thus, there is no ground to grant leave to file an appeal. He would further submit that discrepancies exist between the post-mortem report, description of injuries and the alleged weapon used. Therefore, the case of the prosecution failed. Thus, there is no reason to consider the present petition seeking leave.

5. We have gone through the evidences of PW5, who is none other than the brother of A1 and the deceased. Most of the witnesses are relatives of A1 and the deceased. The case of the prosecution is that A2 and A3 were hired by A1 for commission of offence. Reviewing the testimonies of PW5, PW8 and PW9 along with the post-mortem report detailing the nature of the injuries could result in forming an opinion that there are arguable points. More so, the admissibility and credibility of these witnesses are to be examined in detail.



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6. Since we found that there is a *prima facie* case on the side of the prosecution, we are inclined to grant leave. The other grounds raised between the parties are to be adjudicated during the hearing of the appeal.

7. Accordingly, the Criminal Original Petition to grant leave to file an appeal stands allowed.

[S.M.S., J.] [M.J.R., J.]
06.11.2024

Jeni
Index : Yes
Speaking order / Non-speaking order
Neutral Citation : Yes

To

The Additional Public Prosecutor,
Madras High Court.



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