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Crl.A.No.1280 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.A.No.1280 of 2023
and Crl.M.P.Nos.17905 & 17906 of 2023.

1.Vadivazhagan
2.Mariyappan

... Appellants

Vs.

1.State by:
The Deputy Superintendent of Police,
Thirumanur Police Station,
Ariyalur.

2.State by:
The Inspector of Police,
Thirumanur Police Station,
Ariyalur.

3.Jeyapal

... Respondents

PRAYER: Criminal Appeal filed under Section 14A(2) of SC and ST (Prevention of Atrocities) Act to set aside the order dated 16.06.2023 of the learned Principal District and Sessions Judge, Ariyalur District passed in Crl.M.P.No.708 of 2023 in Spl.S.C.No.24 of 2023 and discharge the appellants in the above said case.



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For Appellants : Mr.A.Nagarajan
for Mr.M.Mathan Raj

For R1 & R2 : Dr.C.E.Pratap
Government Advocate (Crl. Side)

For R3 : Mr.I.Arokiasamy

JUDGMENT

The appeal challenges the dismissal of the discharge petition filed by the appellants against whom final report was filed by the first respondent for the offence under Sections 294(b), 323, 506(i) IPC and Section 3(1)(r)(s), 3(2)(v-a) of SC/ST Act.

2.The appellants sought for discharge before the Trial Court on the ground that though in the complaint, two persons were named as eye witnesses, they were not cited as witnesses and two other persons were shown as witnesses; that the wound certificate would show that there were no external injuries on the victims; that the entire complaint is false and motivated.



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3.The Trial Court after considering the materials and hearing the learned Public Prosecutor found that there was prima facie case to proceed against the accused and dismissed the discharge petition.

4.Mr.A.Nagarajan, learned counsel for the appellants would submit that the statements of witnesses would reveal that the complaint is false and motivated; that the offence under SC/ST Act have been added to falsely prosecute the appellants; that the wound certificate would reveal that none of the witnesses had sustained any external injuries; that the eye witnesses mentioned in the complaint were deliberately not examined by the prosecution whose examination would falsify the case of the complaint; that four persons who were District Level Office Bearers, in-charge of conducting elections and present at the alleged time of occurrence were not examined and that all those aspects would go to show that the impugned prosecution against the appellants is motivated. Hence, prayed for setting aside the order passed by the Trial Court.



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5.The learned counsel for the third respondent/defacto complainant would submit that at the stage of charge framing, the test is not whether the materials are sufficient to convict the accused; that grave suspicion is sufficient to frame charge; and that prima facie case is made out and there is no infirmity in the order passed by the Trial Court.

6.The learned Government Advocate (Crl. Side) reiterated the submissions made before the Trial Court and submitted that the order of the Trial Court does not call for any interference.

7.Primarily the points raised by the appellants are that the case is false; that the witnesses who were actually present even according to the complainant were not examined; that certain other persons were examined whose evidence cannot be relied upon; and that the evidence of the Doctor would show that the witnesses had not suffered external injuries. This Court at this stage cannot hold that the allegations are false which has to be adjudicated only in the trial. The probative value of the evidence and the



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sufficiency of the evidence cannot be gone into at the stage of charge framing. Grave suspicion is sufficient to frame charge. The learned Judge found that there is a grave suspicion and had dismissed the discharge petition. Therefore, this Court finds that the points raised by the appellants have to be adjudicated by the Trial Court.

8.However, considering the request of the learned counsel for the appellants and the age of the appellants, personal appearance of the appellants is dispensed with unless the learned Magistrate considers the appearance of the appellants is necessary for the progress of the trial. The appellants shall not dispute their identity and shall file an affidavit of undertaking that they would cross examine the witnesses through their counsel named in the affidavit. Hence, Crl.M.P.No.17906 of 2023 stands allowed.



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9.In the result, the Criminal Appeal stands dismissed. Consequently,

Crl.M.P.No.17905 of 2023 stands closed.

11.12.2024

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

To

- 1.The Deputy Superintendent of Police,
Thirumanur Police Station,
Ariyalur.
- 2.The Inspector of Police,
Thirumanur Police Station,
Ariyalur.
- 3.The Principal District and Sessions Judge,
Ariyalur District
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

cse

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