



WEB COPY



Crl.R.C.No.1703 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1703 of 2024

and

Crl.M.P.Nos.14037 & 14038 of 2024

1.P.Sundar
2.T.Balaji
3.J.Palanivel

... Petitioners/Accused 4 to 6

Vs.

1.State Represented by,
The Inspector of Police,
Grand Bazaar Police Station,
Puducherry.
(Crime No.358/2020)

2.Dr.S.Vasudevan
Indira Gandhi Government General Hospital &
Post Graduate Institute, Puducherry,
Puducherry.

...Respondents

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to set aside the order in Crl.M.P.No.2590 of 2024 in C.C.No.542 of 2020 on the file of the learned Chief Judicial Magistrate at Puducherry dated 13.09.2024 and discharge the petitioners by allowing the Criminal Revision Petition.



WEB COPY



Crl.R.C.No.1703 of 2024

For Petitioners : Mr.Swamisubramanian

For Respondent-1 : Mr.K.S.Mohan Dass
Public Prosecutor (Puducherry)

ORDER

The revision challenges the dismissal of the discharge petition filed by the petitioner.

2. The petitioners were arraigned as A4 to A6 in the final report filed by the first respondent for the offences under Sections 143, 294(b), 332, 506(ii), 356, 379, 354 of I.P.C. and Section 3(2) of Epidemic Disease (Amendment Ordinance), 2020 r/w 149 & 201 of I.P.C. They filed a petition for discharge, which was dismissed by the learned Chief Judicial Magistrate at Puducherry by order dated 13.09.2024.

3.The allegations against the petitioners is that the petitioners along with others had assaulted the Doctors and staff nurses attached to Indhira Ganghi Government General Hospital and Post Graduate Institute, Puducherry and tore the uniform of the nursing officers and thereby committed the above said offences.



4.The learned counsel for petitioners would submit that none of the witnesses have named the petitioners and there is only a vague reference to three unknown people along with other accused attacking the de-facto complainant and that no identification parade was conducted and the materials produced by the prosecution does not lead to even a grave suspicion against the petitioners and submitted that the impugned order of the learned Magistrate dismissing the petition for discharge is liable to be set aside.

5.The learned Public Prosecutor per contra submitted that LW2 to LW6 have stated about the presence of three unknown persons and it is for the prosecution to establish before the trial Court that the petitioners were also present in the occurrence and the petitioners had abused the witnesses in filthy language and to prove the identity of the petitioners; and that at this stage they cannot be discharged.

6.It is well settled that at the stage of charge framing, grave suspicion is sufficient to frame charge. The probative value, the veracity and the effect of the evidence cannot be gone into at that stage. The probable defence of the accused on facts can only be decided in the trial. The materials relied



Crl.R.C.No.1703 of 2024

upon by the prosecution make out a *prima-facie* case against the petitioners.

Hence, the revision is liable to be dismissed.

7.However, considering the age of the petitioners, the appearance of the petitioners before the Trial Court is dispensed with, unless it is required by the learned Judge for the progress of the Trial. The petitioners shall file an affidavit of undertaking before the trial court that they will not dispute their identity and that the counsel named by them in the affidavit will cross examine the prosecution witness. Accordingly, Crl.M.P.No.14038 of 2024 is allowed.

8.With the above observation, this Criminal Revision Case is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

10.12.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

rsi



Crl.R.C.No.1703 of 2024

To

- 1.The Chief Judicial Magistrate
at Puducherry.
- 2.The Inspector of Police,
Grand Bazaar Police Station,
Puducherry.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.1703 of 2024

SUNDER MOHAN, J.

rsi

Crl.R.C.No.1703 of 2024
and
Crl.M.P.Nos.14037 & 14038 of 2024

10.12.2024