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Crl.R.C(MD)No.874 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.01.2025

Pronounced on : 19.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.874 of 2024

and

Crl.M.P(MD)Nos.9637 and 9639 of 2024

Manikandan

... Petitioner

Vs.

The State of Tamilnadu
State rep. by
The Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram District.
(Crime No.225 of 2021)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records relating to the order passed by the Principal Sessions Judge, Ramanathapuram in Cr.M.P.No.4320 of 2023 in S.C.No.70 of 2023, dated 01.04.2024 and set aside the same and allow this revision petition.

For Petitioner : Mr.Subash Babu
Senior Counsel
for M/s. Subash Law Office

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)



ORDER

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This Criminal Revision Case is filed against the order, dated 01.04.2024 passed in Crl.M.P.No.4320 of 2023 in S.C.No.70 of 2023 on the file of the learned Principal Sessions Judge, Ramanathapuram.

2.The brief facts of the case:

The revision petitioner is Accused No.2 in S.C.No.70 of 2023 on the file of the learned Principal Sessions Judge, Ramanathapuram. Initially, there were four accused in this case. It was alleged that there was some dispute between Accused No.1 and the defacto complainant in respect of money transaction, upon the said dispute Accused No.1 entered into criminal conspiracy with Accused Nos.2 to 4 to make damage to the defacto complainant and in furtherance thereof they set fire on the car of the defacto complainant. A case was registered by the respondent police against the accused in Crime No.225 of 2021 U/s.435, 120(b), 109, 452 of IPC and Section 4 of the TNPPDL Act. After completion of investigation, the respondent police laid the final report and the same is pending as S.C.No.70 of 2023 on the file of the learned Principal Sessions Judge, Ramanathapuram. During pendency of further proceedings, the petitioner/Accused No.2 has filed the petition under Section 227 of Cr.P.C. in Crl.M.P.No.4320 of 2023 in S.C.No.70 of



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2023 to discharge him from the case. The respondent police filed a counter objecting the discharge petition. On hearing both sides and after perusing the material records, the learned Principal Sessions Judge, Ramanathapuram found that there was a *prima facie* case against the petitioner and dismissed the petition for discharge by order, dated 01.04.2024.

3. Aggrieved by the order of dismissal, the petitioner has come forward with this present Criminal Revision Case.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is Accused No.2. It is the case of the prosecution that at the instigation of Accused No.1, the petitioner and other accused had committed the offence. There is no mentioning the name of the petitioner in F.I.R. and also there is no material or any statement U/s.161 of Cr.P.C. implicating the petitioner in the crime. The petitioner has been implicated only on the basis of confession



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statement of the co-accused. Accused No.1 filed the quash petition in Crl.O.P(MD)No.12137 of 2022 before this Court and the same was allowed on 13.06.2023. Since the case against Accused No.1 itself is quashed there is no case as against the petitioner. The petitioner is no way connected with the offence. There is no overtact made out against the petitioner. Moreover, ordinary mischief caused by any individual cannot be brought U/s.3(1) of the TNPPDL Act. There is no *prima facie* evidence in the prosecution case. The trial Court has not considered all these aspects and failed to hold that the alleged charge is groundless. Therefore, this criminal revision may be allowed.

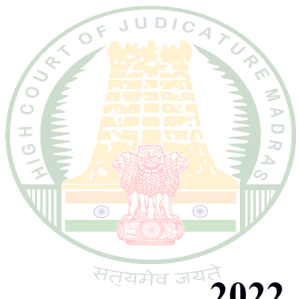
6. The learned Government Advocate (Criminal Side) appearing for the respondent has filed a counter and objected this criminal revision. There are statements of witnesses U/s.161 of Cr.P.C. implicating the petitioner into the crime. At the stage of framing of charge, the trial Court has to find *prima facie* case only to frame the charge. In this case, there is *prima facie* case against the petitioner. The quashing of offence against the co-accused could not be a ground for discharge. The petitioner has to prove his defence and his involvement would be decided only after fullfledged trial. There was no material error or illegality in the impugned order. Hence, this criminal revision may be



dismissed.

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7. On hearing both sides, it is clear that the petitioner is Accused No.2 and the case has been originally registered as against four accused. Admittedly, the alleged offences as against Accused No.1 has been quashed by this Court and the same will not be a ground for discharge the petitioner. The petitioner has not moved any quash petition. Perused the impugned order passed by the trial Court. The trial Court has elaborately discussed the ingredients of Section 227 of Cr.P.C. The trial Court has correctly observed that the case was registered on circumstantial evidence and so the prosecution has to prove its case by adducing evidences linking all circumstantial evidences. On perusal of the statement of listed witnesses U/s.161 of Cr.P.C., it is revealed that the petitioner was passing near the occurrence place at the time of occurrence. The statements U/s.161 of Cr.P.C. of L.W.1, L.W.5, L.W.7 to L.W.11 revealed about the conspiracy talked by the accused and also the *prima facie* material available. All the copies of 161 statements of listed witnesses were furnished to the petitioner and it was not denied by the petitioner.



8. The **Division Bench of this Court held in Crl.R.C.No.869 of 2022, dated 08.06.2023 that**

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“even loss or damage to private properties caused during private disputes between two groups or individuals can be investigated and tried under the provisions of Tamil Nadu Property (Prevention of Damage and Loss) Act 1922 as amended by Act 46 of 1994”.

So, the argument of the petitioner's side that ordinary mischief caused by any individual cannot be brought U/s.3 (1) of TNPPDL Act is not acceptable. Therefore, the trial Court has correctly concluded that the veracity and weight of evidence would be decided only in trial and not at the pre-trial stage.

9. It is settled proposition by the Hon'ble Apex Court that the trial Court has to see whether *prima facie* material available on record to frame charge while deciding the discharge petition. The Hon'ble Supreme Court in a reported case in **2022 Live Law (SC) 741** (state by DSP /v/ Soundirarasu discussed the scope of revisional power against the order passed in discharge petition following the *Munna Devi v. State of Rajasthan & Anr.*, (2001) and held in respect of scope of exercise of revisional power at the stage of framing of charge, which is as under:-

"3.The revision power under the Code of Criminal Procedure cannot be exercised in a



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routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."

10. Considering the above facts and circumstances, this Court does not find any irregularity upon the order of the trial Court and does not warrant any interference. Therefore, this Court is not inclined to allow this criminal revision case.

11. In the result, this Criminal Revision Case is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

19.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD



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To

- 1.The Principal Sessions Judge,
Ramanathapuram
- 2.The Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram District.
(Crime No.225 of 2021)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.874 of 2024
and
Crl.M.P(MD)Nos.9637 and 9639 of 2024

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