

(2014) 10 MAD CK 0311

In the Madras High Court

Case No : Crl.O.P. No. 8964 of 2014 and M.P. No. 1 of 2014

R. Murugaraj

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 15-10-2014

Acts Referred:

Constitution of India, 1950 — Article 21
Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 147, 148, 427, 447, 506(ii)

Citation : (2014) 10 MAD CK 0311

Hon'ble Judges : K.B.K. Vasuki, J

Bench : Single Bench

Judgement

K.B.K. Vasuki, J.—The present petition is filed for quashing the proceedings in PRC. 33/2008 pending on the file of the Judicial Magistrate No. VI, Coimbatore, registered against the petitioners 1 to 28 herein for the offences under Sections 147, 148, 447, 427 and 506(ii) IPC and Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act 1992.

2. The proceedings in PRC No. 33 of 2008 is sought to be quashed on the ground that the allegations raised against the petitioners herein are bald, vague and general in nature and without any specific overt act against the petitioners herein and also on the ground of delay in commencing the trial. On the other hand, the learned Additional Public Prosecutor would, by relying on the statement of the witnesses, oppose the relief sought for herein.

3. Heard the rival submissions made on both sides.

4. The case arising out of which is the proceedings in PRC No. 33/2008, is registered against the petitioners herein, who are the Law College students/day scholars, on the basis of the complaint given by the Principal, Government Law College, Coimbatore, based on the complaint given by the Hostel Deputy Warden. The complaint of Deputy warden proceeds as if the law college students entered into the law college hostel and caused damage to hostel window, door,

TV and other valuables and lights. The complaint of the Deputy warden is enclosed along with the complaint of the hostel students, which proceeds as if the group of persons entered into the hostel at 3pm on 28.9.2007 and attacked the hostel students with deadly weapons. The complaint refers to the name of the persons, who were assaulted. The complaint also mentioned the name of the persons, who trespassed into the hostel and assaulted the hostel students. However, except attributing specific overt act against one of the persons by name A.Nagarajan, no specific overt act is attributed against other persons. The complaint is very vague, bald and general in nature as if the hostel students were assaulted by using deadly weapons such as, Thadi, iron rod and stones. Who are all the victims, who identified the accused and as to how they identified the accused, are explained neither in the complaint nor in the statement of the witnesses. Though the Deputy Warden of the Hostel by name Ramasamy and the Lecturer Sundramoorthy are stated to be the eye witnesses to the occurrence and they have mentioned the name of the accused in their section 161 Cr.P.C statement, it is not stated so in the complaint and the complaint does not proceed to say that the Deputy warden eye witnessed the occurrence. It is only based on the complaint given by the hostel students and not appears to be based on personal knowledge as spoken by the witnesses. When that being the factual position, there is absolutely no legally admissible evidence to ascertain the identification of the accused as that of the petitioners herein.

5. Regarding the delay aspect, the learned counsel for the petitioners has in support of his contention that unexplained inordinate delay in disposing of the cases infringes the right of the accused to speedy trial, cited the following authorities of the Supreme Court reported in (i) Santosh De Vs. Archana Guha and others, and (ii) Vakil Prasad Singh Vs. State of Bihar, . In both the cases, the Supreme Court was of the view that right to speedy trial of an accused in all criminal prosecutions is an inalienable right under Article 21 of the Constitution of India. This right extends not only to the actual proceedings in Court, but also includes within its sweep the preceding police investigations as well. The right of the speedy trial equally extends to all criminal prosecutions and is not confined to any particular category of cases and when such right to speedy trial of an accused has been infringed, the charges or the conviction as the case may be quashed. The Supreme Court by observing so, has quashed the proceedings in both the cases.

6. In the present case, though the occurrence was of the year 2007 and the charge sheet was filed in 2008 and was taken up on file as PRC.No. 33/2008, there is no progress in the trial and there is absolutely no explanation for the delay in concluding the proceedings, it is also not due to any conduct on the part of the accused. Under such circumstances, by applying the observation of the Supreme Court in the decisions cited supra, the proceedings pending against the petitioners is liable to be quashed.

7. That being the factual and legal position involved herein, this court feels that

there is no justification for this Court to allow the proceedings to continue against the petitioners herein, who were the law college students and have been presently practising as lawyers and the proceedings hence stands quashed.

8. In the result, this criminal original petition is allowed by quashing the proceedings in PRC.No. 33 of 2008 pending on the file of the Judicial Magistrate No. VI, Coimbatore. Consequently, connected miscellaneous petition is closed.