

(2018) 01 MAD CK 0282
In the Madras High Court
Case No : 13213 of 2017

Thangaraj & Ors

APPELLANT

Vs

The State through the Inspector of Police

RESPONDENT

Date of Decision : 10-01-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 482](#) - Saving of inherent powers of High Court
[Indian Penal Code, 1860](#), [Section 147](#),
[Section 323](#), [Section 323](#)

Citation : (2018) 01 MAD CK 0282

Hon'ble Judges : P.Rajamanickam

Bench : Single Bench

Advocate : P.Balamurugan, K.Anbarasan, G.Thalaimutharasu

Final Decision : Dismissed

Judgement

1. This Criminal Original petition has been filed by the accused Nos.1 to 4 under Section 482 Cr.P.C to quash the FIR in Cr.No.687 of 2017

under Sections 147, 448, 294(b), 323, 506(i) and 109 of I.P.C and Section 3(i)(r) and 3(i) (s) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989.

2. The learned counsel for the petitioners submitted that the first respondent has registered a case in Cr.No.687 of 2017 under Sections 147, 448,

294(b), 323, 506(i) and 109 of I.P.C and Section 3(i)(r) and 3(i) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)

Act, 1989, based on the complaint given by the second respondent. He further submitted that to constitute the offence under Sections 3(i)(r) and

3(i) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the alleged offence should have been committed in

public view, in other words, the occurrence would have been occurred in a place, where public could view the incident. But, in this case, in the

complaint, the second respondent has not stated that any person has seen the occurrence and as such, the aforesaid sections will not attract and

therefore, he prayed to quash the F.I.R in respect of the offences under Sections 3(i)(r) and 3(i) (s) of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989.

3. In support of the aforesaid contentions, the learned counsel for the petitioners has relied upon the following decisions:

(i) Victor Paul and another Vs State [(2002) M.L.J. (CrI.) 202]

(ii) Mani @ Balasubramaniam Vs Moorthy @ Thirumoorthy [2011-1-L.W (CrI.) 350]

(iii) Periyasamy and another Vs State, represented by the Deputy Superintendent of Police, Avinashi Sub Division, Kovilpalayam Police Station,

Coimbatore District [(2015) 3 M.L.J. (CrI.) 573]

4. The learned Government Advocate (CrI.Side) has submitted that in the F.I.R, it is clearly stated that the alleged occurrence took place within

the temple and the accused persons have assaulted the defacto complainant and when he tried to escape from that place, the persons who were

working in the said temple saved him and therefore, it cannot be said that no one has seen the occurrence and hence he prayed to dismiss the

above petition.

5. The learned counsel for the second respondent has adopted the arguments advanced by the learned Government Advocate (CrI.Side).

6. In the F.I.R, the second respondent has stated that he belongs to scheduled caste and on 07.03.2017, at about 01.30 p.m, he was supervising

the renovation work in the Kalliamman temple at Rajapalayam and at that time, the petitioners herein along with some other persons came in a

Qualis Car bearing Regn.No.TN 60 B 2787 and attacked him and intentionally insulted him by saying his caste name. He also stated that when he

tried to escape from that place, the persons who were working in the said temple came and rescued him. So, it appears that some persons have

witnessed the occurrence.

7. In the decisions cited by the learned counsel for the petitioners, no doubt, it was held that the occurrence should have been taken place in a

place within public view. The aforesaid decisions were rendered in the criminal appeals i.e after full trial, the cases were disposed of and ended in

conviction against which, appeals were filed before this court. In the said appeals, this court has passed judgments, after perusing the evidence on

record. Whereas the present case is at the investigation stage. Only after full trial, it can be said that whether the prosecution has proved that the

occurrence took place within public view or not. At the investigation stage, no view can be expressed as to the alleged occurrence.

8. The learned counsel for the petitioners has also relied upon the decision in Surendran Vs. Ramachandran (2005 M.L.J (Crl.) 20 in support of

his contention. In that case, the accused has filed a petition under Section 482 Cr.P.C to quash the case, which was taken on file by the Judicial

Magistrate of the First Class, Payyanur. In that case also, the High Court of Kerala has held that though the occurrence took place in a private

property, that to attract Section 3 of the SC & ST (Prevention of Atrocities) Act, 1989, it should be in a place, where the public could view the

incident. After so observing, the High Court of Kerala, has dismissed the quash petition.

9. In view of the above facts and circumstances of the case, this Court is of the view that the present case is at investigation stage and at this stage,

it would not be proper to quash the proceedings. Hence, this Criminal Original Petition is dismissed.