

M. Kathiresan Vs. State

M. Kathiresan Vs. State

SooperKanoon Citation : sooperkanoon.com/820828

Court : Chennai

Decided On : Mar-22-1999

Reported in : 1999CriLJ3938

Judge : A. Ramamurthi, J.

Acts : Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Sections 3 and 3(1); Press Council (Repeal) Act - Sections 7(1); Code of Criminal Procedure (CrPC) - Sections 482; Indian Penal Code (IPC) - Sections 147, 148, 354, 427 and 506; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1989 - Rule 7

Appeal No. : Crl. O.P. No. 2945 of 99 and Cri. M.P. No. 1603 of 99

Appellant : M. Kathiresan

Respondent : State

Advocate for Def. : N.R. Elango, Govt. Adv.

Advocate for Pet/Ap. : K. Muthuramalingam, Adv.

Disposition : Petition allowed

Judgement :

ORDER

A. Ramamurthi, J.

1. The petitioner/accused in Calendar case No. 220 of 1998 on the file of IV Additional District Judge, Madurai has preferred the petition under Section 482 of the Code of Criminal Procedure to quash the 'proceedings pending against him.

2. The case in brief is as follows: on 20-9-1994 a case was registered against the petitioner and 16 others by the respondent for the alleged offences punishable under Sections 147, 148, 427, 354, 506(ii) of the Indian Penal Code and Section 3(1)(X)(XI) of Scheduled Castes and S.T. Act, 1989 in crime number 241 of 1994. The complaint is false and frivolous. The respondent, viz., the Inspector of Police has no power to investigate the matter as per Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 Rules (sic). The rule clearly says that only Deputy Superintendent of Police can investigate and file a final report for the offences arising out of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The rule is mandatory. The charge sheet has already been filed by the Inspector of Police who has no power to investigate. It is bad in law and liable to be quashed in the interest of justice. The respondent has filed the charge-sheet without jurisdiction and contrary to law.

3. Heard the learned counsel on both sides.

4. The petitioner is the fourth accused in calendar case No. 220 of 1998. Learned counsel for the petitioner mainly contended that the case against the petitioner as well as other persons were registered by the Inspector of Police for offences punishable under the sections of the Indian Penal Code as well as under Section 3 of the Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 in Crime Number 241 of 1994. According to the rules, only Deputy Superintendent of Police is competent to investigate the case and as the present case has been registered and investigated by Inspector of Police and the charge-sheet filed by the Inspector of Police is bad in law and liable to be quashed. The Additional Public Prosecutor pointed out that originally the case was registered under various sections of the Indian Penal Code and under Section 7(1)(d) of P.C.R. Act and only at the time of filing of the charge-sheet, Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act was included. The case diary

was sent for and perused. The contention of the learned Additional Public Prosecutor is not correct. Even in the remand report relating to one of the accused, there is material to show that at the time of investigating itself the case was altered under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. This being so the investigation ought to have been done only by the Deputy Superintendent of Police and not by the Inspector of Police.

5. Learned counsel for the petitioner also relied upon a decision of this Court in A. Sasikumar v. The Superintendent of Police, Villupuram : 1998(1)CTC276 wherein it is observed that Deputy Superintendent of Police and Officers above his rank alone can hold investigation in regard to offence under Section 3(1)(X) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Inspector of Police has no power to investigate; investigation done by the Inspector of Police is immaterial; direction issued to Superintendent of Police to depute Deputy Superintendent of Police to make further investigation into the matter and to file final report before Special Court. It is therefore clear that the investigation done by the Inspector of Police relating to the case under Section 3 of the Scheduled Castes and Scheduled Tribes is not proper and correct and as such, it is bad in law and liable to be quashed.

6. For the reasons stated above, the petition is allowed and the proceedings in calendar case No. 220 of 1998 on the file of the IV Additional District Court, Madurai is quashed; but, however, it is open to the Superintendent of Police to depute a Deputy Superintendent of Police to investigate the case and file a charge-sheet if warranted at a later point of time.

7. In view of the order of the criminal original petition, no order is necessary in the connected criminal miscellaneous petition.