

Additional District Court(FTC), Theni

Dated:25.10.2024

MP No:01/2024

in

SC No:41/2021.

1. Kumar @ Veerakumar (39/2024)- A4

S/o. Arumugam

-- petitioners / Accused No.4 and 5

2. Ravisundar (28/2024)- A5

S/o. Sundarathevar

State through Police Inspector,

Kurangani police Station,

Cr.No.64/2019

-- Respondent / Appellant

Order in the petition filed by the petitioners / Accused No.4 and 5 U/s.262 of BNSS Act to discharge the petitioners in this case.

Heard both sides. The petition and its content thoroughly considered. This case is filed against the 5 accused persons U/s.304 (II) and 203 of IPC. U/s.304(II) punishment for culpable homicied not the amounting to murder. Section 304(II) is hereunder reproduced.

“ If the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.”

Section 203 IPC is regarding giving false information respecting an offence committed.

The Police report filed U/s.173 CrPC, there are 16 witness have been listed as prosecution witness and 23 documents found. Cognizance was taken by the Judicial Magistrate, Bodinayakanur U/s.190(1)(b) of CrPC. The name of Deceased is one Babu.

The petition averment says that the petitioners/ Accused No.4 and 5 were called by the Kurangani police and illegally detained and thereafter signatures obtained from A4, A5 finally they were chagesheeted in this case. The charge sheet filed against A4, A5 is per se illegal and obuse of process of law.

The Learned Additional public prosecutor argued that the case was initially U/s.174 of CrPC and after full investigation it was found that A4, A5 given false information to the police supressing the real fact. Charge sheet filed as per law

and after clear investigation with collection of material evidences. Hence this petition to be dismissed.

The learned counsel for the petitioners/ Accused A4,A5 argued that A4 was at first instance given complaint regarding the death of babu and A5 attested witness in the complaint given by A1. The complaint was typed at police station which is improbable. The victim was a habitual offender.

The averments contained in the petition as well as the representation made on behalf of the petitioners / A4, A5 are the defences to be taken by the petitioner during the course of trial. The issues raised by the petitioners are facts in issues which is to be tested during the cross examination of prosecution witnesses. The petitioners have sufficient opportunity to lead contra evidences on their side after examaintion of prosecution witnessess completed. Also they are at liberty to elicit the facts in favour of petitioner side during the course of trial. The petitioners have not made out any case for discharge.

In fine, the petition filed by the petitioners U/s.262 of BNSS Act is stands dismissed since no merit found in the petition.

Sd./Thiru.S.Gopinathan
Additional District Judge,
Additional District Court(FTC),
Theni