

(2003) 09 MAD CK 0185

Madras High Court

Case No: Criminal O.P. No. 32155 of 2003 and Criminal M.P. No. 8907 of 2003

R. Dhandapanimuthu and
another

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Sept. 23, 2003

Citation: (2004) 1 LW(Cri) 286

Hon'ble Judges: M. Chokalingam, J

Bench: Single Bench

Advocate: S. Thangavel, for the Appellant; A.N. Thambidurai Government Advocate (Crl. Side), for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M. Chokalingam, J.

This Criminal Original Petition has been brought forth, seeking to quash the charges framed against the Petitioners, who are arrayed as Accused Nos. 4 and 8 along with others in C.C. No. 552 of 2000 on the file of the Judicial Magistrate No. 1, Tiruppur.

2. What is all contended by the learned Counsel for the Petitioners is that, in the said case, there were eight accused; these Petitioners are shown as A-4 and A-8 along with others; they also appeared before the Court concerned and the proceedings are also pending from January, 2001; on 20.03.2002, copies were furnished and the matter was adjourned to 26.03.2002, when the charges were framed under Sections 120-B and 409 of IPC, even without hearing the Petitioners, read over and explained to them and they pleaded not guilty; the trial was posted on 03.05.2002; but, even before framing the charges, as contemplated under the Code of Criminal Procedure, the accused were not questioned and the charges so framed, without strictly following the mandatory provisions of law, have got to be set aside.

3. Heard the learned Counsel for the State.

4. A copy of the minutes of the lower Court is also placed in the hands of this Court. On a perusal of the minutes of the diary extract of the said Court pertaining to C.C. No. 552 of 2000 would clearly indicate that the accused were not questioned on 26.03.2002 before framing the charges. Under such circumstances, it would be quite evident that the procedural formalities, as contemplated under the Criminal Procedure Code, were not strictly followed and hence, without any hesitation, framing of charges on 26.03. 2002 have got to be quashed.

5. It is contended by the learned Government Advocate that the accused were questioned on 26.03.2002 and hence, it is in the line of the procedural formalities to be observed by the Court as per the Criminal Procedure Code.

6. This Court is unable to agree to the contention put forth by the State, since the accused were questioned only on the charges framed, but not before framing charges. Hence, this is the case where the charges so framed by the Judicial Magistrate No. I, Tiruppur, have got to be quashed and the same are accordingly quashed, with a direction to frame necessary charges after giving the Petitioners/accused an opportunity of being heard.

7. With the above direction, this Criminal Original Petition is closed. No costs. Consequently, the connected Crl.M.P. is closed.