

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.06.2015

DELIVERED ON : 16.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP No.14152 of 2015
and M.P.Nos.1 and 2 of 2015

Karikalan .. Petitioner/Accused
Vs

State, rep by
The Inspector of Police
Paravakkottai Police Station
Paravakkottai Village and Post
Thiruvavarur District
Crime No.325 of 1999 .. Respondent/Complainant.

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records relating to S.C.No.42 of 2015 on the file of
the Chief Judicial Magistrate - Thiruvavarur in pursuance of the FIR in
Cr.No.325 of 1999 on the file of the respondent and quash the same.

For Petitioner Mr.D.Veerasekaran
For Respondent Mr.C.Emalias, Addl.Public Prosecutor

ORDER

This petition has been filed to call for the records relating to
S.C.No.42 of 2015 on the file of the Chief Judicial Magistrate -
Thiruvavarur in pursuance of the FIR in Cr.No.325 of 1999 on the file
of the respondent and quash the same.

2. Heard the learned counsel for the petitioner and the learned
Additional Public Prosecutor appearing for the State.

3. The petitioner, who is the first accused, is seeking to quash
the Final Report in S.C.No.42 of 2015. On a complaint lodged by
N.Govindaraj, the respondent police registered a case in Cr.No.325 of
1999 under Sections 147, 148, 341, 452, 427, 324, 323, 379, 506(ii)
IPC and Section 3(1) of the Tamil Nadu Public Property [Prevention of
Damage and Loss] Act, against 15 persons. After completing the
investigation, the respondent filed a Final Report against 15 persons
which was taken on file by the jurisdictional Magistrate and the case
was committed to the Sessions Court and later made over to the
Assistant Sessions Judge-cum-Chief Judicial Magistrate, Nagapattinam.

During the trial before the Assistant Sessions Judge, the petitioner absconded and the case against him was split up. Similarly, certain other accused appear to have absconded and the case against them was split up and Non-bailable warrant was pending. Trial proceeded as against nine accused and most of the witnesses turned hostile and they were all acquitted on 14.12.2005. After the acquittal of nine accused, three accused again appeared and the learned Assistant Sessions Judge seems to have perused the entire records and evidence of witnesses and acquitted them on 16.03.2012. Therefore, the petitioner is praying for quashing the proceedings against him on the ground that it will be an abuse of process of law. In support of his contention, the learned counsel relied upon two judgments of this Court, in *Tamilmaran v. State*, rep by Inspector of Police, Paravakottai Police Station [(2007) 1 MLJ (Cr1) 1334; and *Sundaramoorthy @ A.S.Moorthy v. State* and another [unreported] wherein, under similar circumstances, this Court has quashed the prosecution.

4. A careful reading of those two judgments show that, this Court has not laid down an inexorable rule that the prosecution as against the absconding accused should be quashed on the ground that the trial Court had acquitted the accused who had diligently participated in the trial. This Court appears to have quashed the prosecution in the facts and circumstances of those cases. Admittedly, this petitioner was absconding and the Hon'ble Supreme Court in *Niranjan Singh & Anr vs Prabhakar Rajaram Kharote & Ors* [AIR 1980 SC 785] has held as follows:

"We agree that, in our view, an outlaw cannot ask for the benefit of law and he who flees justice cannot claim justice."

5. The fact remains that the petitioner paid scant regard to the trial Court and was absconding since 2000, i.e., 15 years. He has been watching the progress of the trial as against the other accused and thereafter, he has now come forward to quash the proceedings. If proceedings for such absconders are quashed on the grounds canvassed by the learned counsel, this Court will be giving premium to them and others will follow suit.

In the result, this petition is devoid of merits and the same stands dismissed. Consequently, connected miscellaneous petitions are closed.

gms

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police
Paravakkottai Police Station
Paravakkottai Village and Post
Thiruvarur District.

2.The Chief Judicial Magistrate,
Thiruvarur.

3.The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.D.Veerasekaran, Advocate SR.29308

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Crl.OP No.14152 of 2015



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