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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

CRL.O.P. (MD)No.2617 of 2015

and

M.P (MD)No.1 of 2015

1. Pushparaj
2. Ganapathy
3. Muthu
4. S.Jeyaraj
5. Mariappan
6. Sudalaimani
7. Sathyamoorthi ... Petitioners/Accused 3,6,8,12,24,35,36

Vs.

The State represented by
the Inspector of Police,
Puliampatti Police Station,
Thoothukudi District.
(Crime No.217 of 1995) ... Respondent/Complainant

Prayer: Criminal Original Petition is filed under section 482 of the Code of Criminal Procedure, to call for the records in connection with the impugned charge sheet in C.C.No.38 of 2000 pending on the file of the learned Judicial Magistrate No.I, Kovilpatti and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.G.Thalaimutharasu
For Respondent : Mr.K.Anbarasan
Govt. Advocate (Crl.side)

ORDER

This Criminal Original Petition is filed to quash the charge sheet in C.C.No.38 of 2000 pending on the file of the learned Judicial Magistrate No.I, Kovilpatti insofar as the petitioners are concerned.

2. Pursuant to communal tensions prevailing in Tirunelveli District at the relevant point of time, several cases came to be registered. The petitioners are the accused Nos.3, 6, 8, 12, 24, 35 and 36 of I.P.C., in Crime No.217 of 1995 registered at



Maniachi Police Station and thereafter transferred to the respondent police for offences under Sections 147, 148, 448, 447, 427, 379 and 506(ii) I.P.C. r/w. Section 25(1) of Arms Act altered into 147, 148, 448, 447, 427 and 379 of I.P.C. Pursuant to investigation, charge sheet has been filed under Sections 147, 148, 447, 448, 427 and 379 of I.P.C. Under G.O.(Ms)No.53 Public (Law & Order) dated 05.06.2000, Government directed the withdrawal of several similar cases. However, the present case was tried in C.C.No.246 of 1998 before the learned Judicial Magistrate No.I, Kovilpatti. These petitioners have not appeared before the trial Court, since summons was not served on them. The case against them was split up and is pending trial in C.C.No.38 of 2010. It is represented that the petitioners are now appearing before the trial Court. Under judgment in C.C.No.246 of 1998 dated 14.12.2005, all the accused, who faced trial therein were acquitted. Similarly in one other split up case tried in C.C.No.18 of 2005, the accused therein were acquitted under judgment dated 20.06.2013.

3. The learned counsel appearing for the petitioners submitted that these petitioners stand on the same footing as the other accused, who stand acquitted and the proceedings pending against them are to be quashed. The learned counsel relies on order passed in CrI.O.P.(MD)No.15153 of 2012 dated 03.07.2014.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (CrI.side).

5. This Court under order in CrI.O.P.(MD)No.15153 of 2012, dated 03.07.2014, has observed and ordered as follows:

"6. Admittedly, there was a communal clash in the year 1995 and the charge sheet was filed only in the year 2000 and the case was split up against the present petitioner is pending. Against 33 accused, there was a trial and they are all acquitted. According to the prosecution, the petitioner has to undergo trial. But, this Court is of the considered view that in the above said circumstances and also in the light of the Government letter addressed to the Superintendent of Police and the communal clashes of the year 1995, the petitioner need not to undergo an ordeal of trial entitled (sic. entailed) and the proceedings in C.C.No.36 of 2000 is quashed and this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed."



6. The said observation would apply with equal force in the present case. Accordingly, this Criminal Original Petition is allowed and the proceedings against the petitioners in C.C.No.38 of 2000 pending on the file of the learned Judicial Magistrate No.I, Kovilpatti is quashed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.I, Kovilpatti.
2. The Inspector of Police,
Puliampatti Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Akv

AA/18.03.2015/3p- 4c/

CRL.O.P. (MD) No.2617 of 2015

26.02.2015