

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP.No.11837 of 2016

and

CrlMP No.6065 of 2016

1.Shamsudeen
2.Sahul Ahamed
3.Abdul Urasan @ Abul Urasan
4.Iqbal @ Kuthirai Iqbal
5.Nassar @ Kuwait Nassar
6.Bakrudeen ... Petitioners/Accused A6,
A8, A10 to A13

Vs

State rep.by its
The Inspector of Police,
Poraiyar Police Station,
Nagapattinam District.
(Crime NO.274/1998) ... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in Charge Sheet No.22 of 2000 dated 20.11.2000 pertinent to PRC No.6 of 2011 on the file of the learned Judicial Magistrate No.II, Mayiladuthurai and quash the same.

For Petitioners :Mr.R.Shivakumar
for K.M.Vijayan Associates

For Respondent :Mr.C.Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to quash the proceedings in Charge Sheet No.22 of 2000 dated 20.11.2000 pertinent to PRC No.6 of 2011 on the file of the learned Judicial Magistrate No.II, Mayiladuthurai.

2. On a complaint lodged by one Abdul Rahman, the respondent police registered a case in Crime No.274 of 1998 and after completing the investigation filed a final report against 14 persons including the petitioners herein. Since the petitioners were in abscondance, the case against them was split up and the case was proceeded in SC.No.64 of 2003 against the other accused before the learned Assistant Sessions Judge, Mayiladuthurai and the other accused were acquitted by Judgment dated 31.03.2004. After elapse of more than 10 years, the petitioners have approached this Court for quashing of the final report pending against them in Crime No.274 of 1998 before the learned Judicial Magistrate No.II, Mayiladuthurai.

3. The fact remains that the petitioners were shown as accused in the final report, that was filed before the learned Judicial Magistrate No.II, Mayiladuthurai and since they were in abscondance from 2002 onwards, the committal Court has split up the case and committed to the Court of Sessions.

4. In NIRANJAN SINGH AND ANOTHER Vs PRABHAKAR RAJARAM KHAROTE AND OTHERS reported in AIR 1980 SC 785, the Hon'ble Supreme Court held that an absconder cannot claim any privilege under law. Under such circumstances, this Court is not inclined to quash the proceedings. However, the petitioners are directed to surrender before the learned Judicial Magistrate No.II, Mayiladuthurai, and on their surrender, warrants if any against them, shall be recalled. On that day, the learned Judicial Magistrate No.II, Mayiladuthurai, is directed to consider the bail application and pass orders, on condition that each of the petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Magistrate. Further, the learned Judicial Magistrate No.II, Mayiladuthurai, is directed to commit the case to the Court of Sessions as expeditiously as possible.

With the above directions, this Criminal Original Petition is closed. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

mps

To

1.The Judicial Magistrate No.II,
Mayiladuthurai.

2.The Inspector of Police,
Poraiyar Police Station,
Nagapattinam District.

3.The Public Prosecutor,
High Court, Chennai.

+1 cc to M/s.K.M.Vijayan Associates sr.31866

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