

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Cr1.O.P.No.27511 of 2015

Reserved on 11.12.2015

N.C.Banumathi

.. Petitioner

Vs

S.Annamalai

.. Respondent

Prayer: This Petition is filed under Section 482 Cr.P.C., praying to call for the records in C.C.No.70 of 2013 on the file of Fast Track Court, Thiruvannamalai and quash the same.

For Petitioner : Ms.Kamatchi D.

For Respondent : Mr.C.Emalias,  
Addl.Public Prosecutor

ORDER

This petition has been filed by the petitioner, praying to call for the records in C.C.No.70 of 2013 on the file of Fast Track Court, Thiruvannamalai and quash the same.

2. The petitioner is Doctor by profession. On 12.10.2008 at about 2.00 a.m., the respondent/defacto complainant came along with his brother's son, Mahalingam for treatment of unknown insect bite. Duty nurse had given an injection and tablets. Later, since the patient developed some complications, the respondent was again brought him to the hospital at about 5.30 a.m. The petitioner being duty doctor attended to him and gave treatment, however, despite the said treatment, the patient died in the hospital. Hence the respondent lodged a complaint against the petitioner, which was registered in Crime No.685 of 2008 for the offence under Section 304(A) IPC. After completion of the investigation, a charge sheet was filed before the Judicial Magistrate II, Thiruvannamalai, which was taken on file vide C.C.No.158 of 2010. Subsequently, it was transferred to Fast Track Court, Tiruvannamalai and numbered as C.C.No.279 of 2011 and it is pending for trial. While so, for the same set of allegations, the respondent also filed a private complaint under

Section 200 Cr.P.C. before the learned Judicial Magistrate I, Thiruvannamalai. Though the petitioner brought to the knowledge of the learned Magistrate I, Thiruvannamalai about the pendency of the criminal case for the same allegations, the learned Magistrate had taken the private complaint on file vide C.C.No.309 of 2011 for the offence under Section 304(A) IPC. It was subsequently transferred to Fast Track Court, Thiruvannamalai and numbered as C.C.No.70 of 2013. Therefore, the petitioner has come forward with the present petition, praying to quash the proceedings in C.C.No.70 of 2013 on the file of the Fast Track Court, Thiruvannamalai.

3. The learned counsel appearing for the petitioner would submit that for the same alleged offence, two proceedings were initiated against the petitioner and as per Section 300 Cr.P.C., no accused should be vexed with more than one trial for the offence arising out of identical acts alleged to have committed by him. He would further submit that no person shall be prosecuted and punished for the same offence more than once. He pointed out that already, there were proceedings in C.C.No.279 of 2011 before the Fast Track Court, Thiruvannamalai based on the charge sheet filed by concerned police and while so, for the same offence, at the instance of the respondent, again another proceedings in C.C.No.70 of 2013 were taken on file. Therefore, the learned counsel sought for quashing the proceedings in C.C.No.70 of 2013.

4. Heard the learned counsel appearing for the petitioner and perused the entire materials available on record.

5. It is settled law that a person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence. In the present case, the petitioner/accused has not been tried so far by the Court below and it is admitted fact that both the cases are pending for trial. The only apprehension of the petitioner is that for the same offence, if the petitioner is tried twice, she would be convicted in both the cases, which in my opinion, cannot be sustained. But pending trial in C.C.No.279 of 2011 which arose on filing the charge sheet by the concerned police, does not bar for the learned trial Judge to conduct the trial in respect of C.C.No.70 of 2013 which arose on filing a private complaint by the respondent. In such view of the matter, I feel it appropriate to direct both cases be tried together simultaneously.

Accordingly, the learned Judge, Fast Track Court, Thiruvannamalai is directed to conduct the trial in both the cases simultaneously and complete the same in accordance with law. Consequently, this Criminal Original Petition is dismissed.

Suk

s/d-  
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

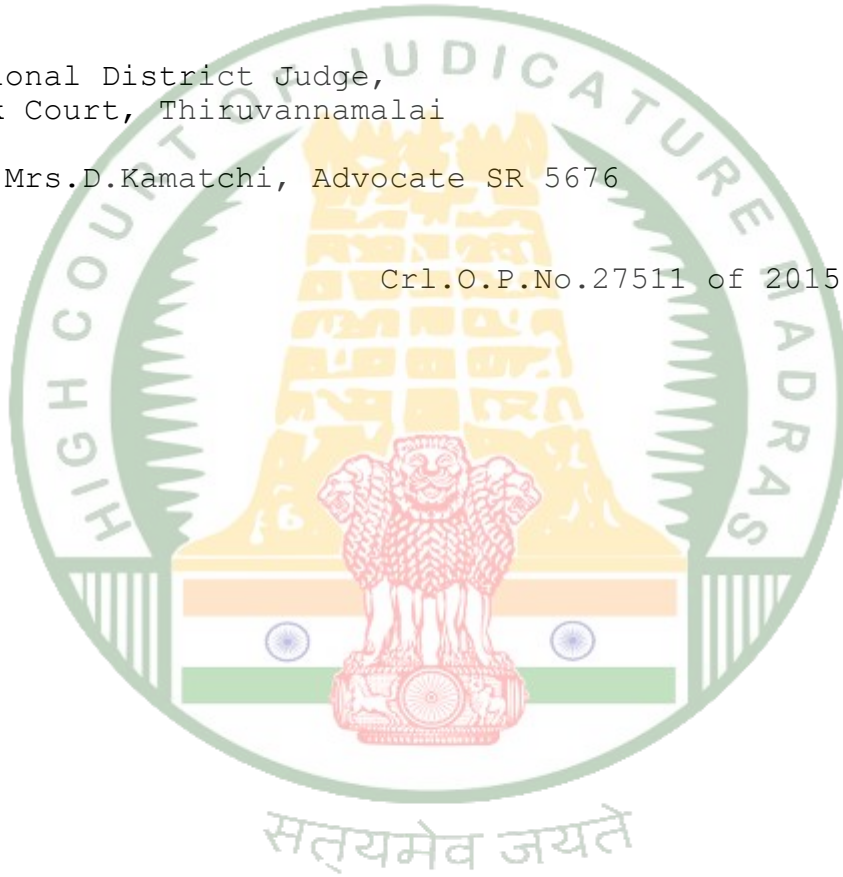
To

The Additional District Judge,  
Fast Track Court, Thiruvannamalai

+ 1 cc to Mrs.D.Kamatchi, Advocate SR 5676

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