

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.19680 of 2016

and M.P.Nos.9217 and 9218 of 2016

A.Rajesh ... Petitioner/Accused

vs.

1.The State  
Rep by the Inspector of Police  
Tindivanam Police Station  
Tindivanam  
Villupuram District.

2.The Inspector of Police  
Madurantakam Police Station  
Madurantakam  
Kanchipuram District.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the Final Report in S.C.No.51 of 2015 on the file of the Principal Sub Judge, Tindivanam, Villupuram District in Cr.No.95 of 2003 on the file of the 1st respondent police herein.

For petitioner : Mr.J.Ashok

For Respondents : Mr.C.Emalias,  
Additional Public Prosecutor

|             |               |
|-------------|---------------|
| RESERVED ON | PRONOUNCED ON |
| 31.08.2016  | 02/09/16      |

## O R D E R

This petition has been filed to call for the records and quash the Final Report in S.C.No.51 of 2015 on the file of the Principal Sub Court, Tindivanam, Villupuram District in Cr.No.95 of 2003 on the file of the 1st respondent police herein.

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

3. The facts of this case do make an interesting reading:

[a] On the complaint lodged by one Thanigainathan, the Sub Inspector of Police, Madurantakam Police Station registered a case in Cr.No.101 of 2003 for offences u/s 341, 294-B and 506 (ii) IPC r/w 25(1)(A) of the Indian Arms Act against some unknown persons who had come in a white colour Tata Sierra car bearing Registration No.TN-57-Y-4727.

[b] It is the allegation of Thanigainathan that, while he and his friends were coming down by their two wheelers in the night hours of 13.02.2003, a Tata Sierra car whizzed past them in a dangerous manner and when Thanigainathan questioned, the occupants of the car stopped the vehicle and one of them whipped out a firearm and threatened Thanigainathan and his friends. It is also alleged that they threw beer bottles at Thanigainathan and his friends. Thereafter, they got into the car and sped away.

[c] Thanigainathan reported the matter to the Madurantakam police, based on which, the aforesaid FIR was registered. Madurantakam police intimated Villupuram Police about this incident and when the Tata Sierra car was passing through Tindivanam, it was intercepted by Kamalakannan, the Sub Inspector of Police and the car was searched. The police recovered unauthorised firearms and ammunitions. Tindivanam police registered a case in Cr.No.95 of 2003 on 14.02.2003 u/s 25(1)(A) of the Indian Arms Act and arrested the occupants of the car, viz., Rajesh and Kannan.

[d] After completing the investigation in Madurantakam Police Station Cr.No.101 of 2003, a Final Report has been filed against Rajesh and Kannan for offences u/s 341, 294-B, 506(ii) IPC r/w 25(1)(A) of the Indian Arms Act and the case is now pending in S.C.No.200 of 2015 before the Sub Court, Madurantakam.

[e] The Tindivanam police completed the investigation in Cr.No.95 of 2003 and has filed a Final Report against Rajesh and Kannan for offence u/s 25(1)(A) of the Indian Arms Act and the case is now pending trial in S.C.No.51 of 2015 on the file of

the Principal Sub Judge, Tindivanam. Under such circumstances, Rajesh is before this Court for quashing the prosecution in S.C.No.51 of 2015 pending trial before the Principal Sub Judge, Tindivanam.

4. The learned counsel for the petitioner submitted that for the same offence, Rajesh cannot be made to face trial twice, as that would offend his right guaranteed under Article 20 of the Constitution of India.

5. Per contra, learned Additional Public Prosecutor controverted the submissions and stated that both are different and distinct transactions, for which two separate trials is not illegal.

6. This Court gave its anxious consideration to the facts and circumstances of the case.

7. In the 161 Cr.P.C. statement of Kamalakannan, the Sub Inspector of Police has clearly stated that on the information by wireless, he intercepted the Tata Sierra vehicle bearing Registration No.TN-57-Y-4727 and on checking the car, it was found to have arms and ammunitions as stated above. Though both the incidents appear to have taken place in the course of the same transaction, yet, on a closer scrutiny of the facts and circumstances, the prosecution in S.C.No.200 of 2015 is for brandishing a firearm and threatening Thanigainathan and his friends, whereas, the prosecution in S.C.No.51 of 2015 is for possession simpliciter of firearms.

8. Under such circumstances, this Court is of the view that, it will be in the interest of justice if both the cases are tried by the same Court, so that the accused can set up an effective defence. However, this is not a fit case to quash the prosecution. Hence, this Court transfers the prosecution in S.C.No.51 of 2015 from the file of the Principal Sub Court, Tindivanam to the file of the Sub Court, Madurantakam, to be tried along with S.C.No.200 of 2015. The Principal Sub Judge, Tindivanam is directed to not only transfer the records in S.C.No.51 of 2015, but also the material objects concerned in the case within two weeks from the date of receipt of a copy of this order to the Court of the Sub Judge, Madurantakam. The Principal District and Sessions Judge, Villupuram is directed to oversee the transfer of records and material objects as stated supra. The Sub Judge, Madurantakam is directed to proceed with the trial in S.C.No.200 of 2015 and the transferred S.C.No.51 of 2015 simultaneously and not as joint trial.

With the above direction, this petition is ordered accordingly. Consequently, connected miscellaneous petition are closed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

To

1.The Inspector of Police  
Tindivanam Police Station  
Tindivanam  
Villupuram District.

2.The Inspector of Police  
Madurantakam Police Station  
Madurantakam  
Kanchipuram District.

3.The Principal Sub Court  
Tindivanam, Villupuram District.

4. The Principal District and Sessions Judge,  
Villupuram.

5.The Sub Court  
Madurantakam.

6.The Public Prosecutor  
High Court,  
Madras 600 104.

+1 cc to Mr.J.Ashok Advocate sr 49893

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