

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.06.2017
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CrI.O.P.No.5838 of 2017

Moovendan

[Petitioner] /A-4

Vs

1.State rep.by Inspector of Police,
Kottucherry Police Station,
Karaikal, Puducherry.
Crime No.69 of 2011.

2.Ramkumar

[Respondent]/Complainant

Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to J.C.C.No.5 of 2014 on the file of the Juvenile Justice Board, Karaikal and quash the same.

For Petitioner : Mr.J.Jawahar

For Respondents: Mr.A.Tamilvanan,
Govt. Advocate (Puducherry) for R1

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in J.C.C.No.5 of 2014 on the file of the Juvenile Justice Board, Karaikal.

2.Pursuant to the occurrence which took place on 12.08.2011 at about 9.00 a.m., First Information Report was filed against the petitioner and others in Crime No.69 of 2011 under Sections 307, 324, 323 and 427 r/w 34 of IPC and after investigation, the first respondent filed charge sheet against the accused persons before the learned Judicial Magistrate No.II, Karaikal and the same was taken on file in P.R.C.No.15 of 2013. After committal proceedings, the case was made over to the learned Sessions Judge, Karaikal in S.C.No.25 of 2014. After a full-fledged trial, the Sessions Court acquitted the accused persons by judgment dated 04.09.2015 and the said judgment became final, as no appeal was filed by either of the parties. Since the petitioner was a juvenile at the time of occurrence, the case

was split up and the case relating to the petitioner was assigned a separate number in J.C.C.No.5 of 2014 on the file of the Juvenile Justice Board, Karaikal. Since there is no sitting of the Magistrate at Juvenile Justice Board, the case has been kept pending without any progress, and now the same is coming up for conducting trial. Since the other co-accused have been acquitted by the Sessions Court, the present Criminal Original Petition is filed by the petitioner, to quash the proceedings relating to J.C.C.No.5 of 2014 on the file of the Juvenile Justice Board, Karaikal, on the ground that the petitioner is entitled for acquittal, since the similarly placed co-accused on the same set of facts, have been acquitted by the Sessions Court.

3.The learned counsel for the petitioner relied on a decision of this Court dated 03.01.2017 in Crl.O.P.No.27639 of 2016, and submitted that when the same set of evidence against all the accused persons is inseparable and indivisible, the petitioner cannot be treated differently on the basis of the same evidence. Stating so, the learned counsel for the petitioner prayed for allowing this Criminal Original Petition.

4.Mr.A.Tamilvanan, learned Government Advocate (Puducherry), takes notice for the first respondent.

5.It is seen that the learned Sessions Judge, Karaikal, after a full fledged trial, has acquitted the accused persons in S.C.No.25 of 2014 by judgment dated 04.09.2015 and the said judgment became final, as no appeal was filed by either of the parties. Since the petitioner was a juvenile at the time of occurrence, the case was split up and the case relating to the petitioner was assigned a separate number in J.C.C.No.5 of 2014 on the file of the Juvenile Justice Board, Karaikal. As there was no sitting of the Magistrate at Juvenile Justice Board, the case has been kept pending without any progress. Now the case is ready to be posted for conducting trial. The issue in respect of the contention of the learned counsel for the petitioner that the petitioner herein is entitled for acquittal, since the similarly placed co-accused on the same set of facts, have been acquitted by the Sessions Court, has been considered by me in the order made in Crl.O.P.No.27639 of 2016 dated 03.01.2017. As rightly stated by the learned counsel for the petitioner, when the same set of evidence against all the accused persons is inseparable and indivisible, the petitioner cannot be treated differently on the basis of the same evidence. Further, when on the very same set of evidence, the co-accused were already acquitted from the charges, there is nothing to prove against the petitioner based on the same set of evidence. Under similar circumstances, in the case of Deepak Rajak vs. State of West Bengal, in the judgment made in Appeal (Crl.) 1308 of 2001 dated

14.06.2007, the Hon'ble Supreme Court had extended the benefit of acquittal to the petitioner therein on the ground that the similarly placed co-accused on the same set of facts and on similar accusations have been acquitted by the Court.

6.Following the principles enunciated in the above judgments which squarely applies to the facts of the present case, this Criminal Original Petition is allowed and the proceedings in J.C.C.No.5 of 2014 on the file of the Juvenile Justice Board, Karaikal is quashed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

KM
To

- 1.The Sessions Judge, Karaikal.
- 2.The Juvenile Justice Board,
Karaikal.
- 3.The Inspector of Police,
Kottucherry Police Station,
Karaikal, Puducherry.
- 4.The Public Prosecutor,
Madras High Court,
Chennai-600 104.

+1cc to Mr.J.Jawahar, Advocate Sr.42165

Cr1.O.P.No.5838 of 2017

WEB COPY

kj[co]
srg 20/06/2017