

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Cr1.O.P.No.27639 of 2016

V.Kasinathabharathi

... Petitioner

Vs

The State, rep. By
The Inspector of Police,
Voimedu Police Station,
Vedaranyam Taluk,
Nagapattinam District.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the proceedings in C.C.No.160 of 2014 pending on the file of the District Munsif cum Judicial Magistrate Court, Vedaranyam and quash the same.

For Petitioner : Mr.S.Conscious Elango
For Respondent : Mr.C.Emalias,
Addl. Public Prosecutor.

ORDER

The present criminal original petition has been filed to call for the records relating to the proceedings in C.C.No.160 of 2014 pending on the file of the District Munsif cum Judicial Magistrate Court, Vedaranyam, and quash the same.

2. It is the case of the petitioner that the respondent police registered a case in Crime No.74 of 2000 as against the petitioner and four others for the alleged offence punishable under Sections 147, 148, 341, 323, 324, 427 and 506(ii) I.P.C. In the said case, after completion of investigation, the respondent police filed charge sheet before the learned Judicial Magistrate, Thiruthuraipoondi, and the same was taken on file as C.C.No.153 of 2005. Subsequently, the said case was transferred to District Munsif cum Judicial Magistrate Court, Vedaranyam, and renumbered as C.C.No.1161 of 2008. Thereafter, the charge sheet against the petitioner and two other accused viz., Selvam

and Ravi was split up and it was taken on file as C.C.No.160 of 2014. Now, to quash the said proceedings in C.C.No.160 of 2014, the petitioner has come up with the present petition.

3. Learned counsel appearing for the petitioner submitted that earlier, in the connected case in C.C.No.1161 of 2008, the de facto complainant and the accused persons filed a petition under Section 320(2) CrI.P.C. before the learned District Munsif cum Judicial Magistrate, Vedaranyam, stating that they have amicably settled the matter and sought to close the case. However, the learned Magistrate dismissed the petition as not maintainable. Subsequently, during the course of examination, the de facto complainant did not support the case of the prosecution. Thereafter, after full fledged trial, the learned District Munsif cum Judicial Magistrate, Vedaranyam, found that the evidence of the de facto complainant is in total contradiction to the case of the prosecution and on the above said reasonings, acquitted the accused persons. 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. In support of his contention, the learned counsel appearing for the petitioner has relied upon the judgments of the Hon'ble Supreme Court as well as this Court and submitted that the continuance of the proceedings as against the petitioner is nothing but an abuse of process of law. Thus, he sought to quash the proceedings as against the petitioner pending in C.C.No.160 of 2014.

4. On the said submissions, I have also heard the learned Additional Public Prosecutor and perused the entire materials available on record, including the judgment of acquittal in respect of the co-accused made in C.C.No.1161 of 2008.

5. A perusal of the materials available on record, I find that a case in C.C.No.1161 of 2008 was tried as against the co-accused for the same occurrence and in that case, the de facto complainant has not supported the case of the prosecution and hence, the co-accused were acquitted by the learned District Munsif cum Judicial Magistrate, Vedaranyam. In such a situation, I am of the opinion, the continuation of the proceedings for the same occurrence as against the petitioner in C.C.No.160 of 2014 will be nothing but an abuse of process of law, which leads to unwanted harassment to the petitioner.

6. For all the above reasons, the proceeding in C.C.No.160 of 2014 pending on the file of the learned District

Munsif cum Judicial Magistrate, Vedaranyam, is liable to be quashed and the same is accordingly, quashed and the criminal original petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbi

To

- 1.The District Munsif cum Judicial Magistrate,
Vedaranyam.
- 2.The Inspector of Police,
Voimedu Police Station,
Vedaranyam Taluk,
Nagapattinam District.
- 3.The Public Prosecutor,
High Court, Madras.

ks (CO)
md(20/01/2017)

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Crl.O.P.No.27639 of 2016

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