



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.05.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD)No.17742 of 2016

and

CrI.M.P.(MD)Nos.8843 & 8844 of 2016

Ravichandran

:Petitioner/Accused No.5

Vs.

1. The State Rep. through
The Deputy Superintendent of Police,
Orathanadu Sub Division,
Thanjavur District.

2. The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.

3. Ramachandran

: Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertains to proceedings pending in S.S.C.No.75 of 2016 on the file of I st Additional District & Sessions Court (PCR), Thanjavur and quash the same.

For Petitioner :: Mr.R.Murali

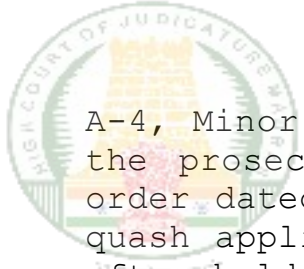
For Respondents 1&2 :: Mr.K.Anbarasan

Government Advocate (CrI.side)

O R D E R

On the complaint lodged by Ramachandran, the respondent police registered a case in Crime No.35 of 2009 on 20.01.2009 and after completing the investigation, has filed a charge sheet against five accused before the learned Judicial Magistrate, Orathanadu for offences under Sections 147, 341, 323, 355, 379(NP) of IPC r/w Section 3(i)(x) of SC/ST Act.

2. Since Minor(A1) and Ravichandran (A5) were in abscondence, the case against them was split up and the case was committed to the Special Court for SC/ST Act, where A-2, A-3 and A-4 were tried in S.C.No.34 of 2013 and were acquitted of all the charges, by order dated 13.09.2013. After the acquittal of A-2 to



A-4, Minor (A-1), who was abroad, returned to India and challenged the prosecution in CrI.O.P.(MD)No.9120 of 2016. This Court, by order dated 14.06.2016 in CrI.O.P.(MD)No.9120 of 2016, allowed the quash application and quashed the prosecution against Minor (A-1), after holding as follows:

"2. The charges against the petitioner, as framed by the I Additional Sessions Court, are under Sections 147, 341, 323, 355 IPC r/w Section 3(1) (x) of SC/ST Act. As the petitioner/A1 was not available during the course of trial, the case against him had been split up and the Court had proceeded with the trial of A2 to A4. In order to substantiate the charges against the accused persons, the prosecution relied upon 15 witnesses. Out of which, the prosecution has chosen to examine 7 witnesses. The evidence of all witnesses have been produced before this Court in the typed set of papers.

3.P.W.1/ the defacto complainant Ramachandran has specifically stated that he know all the accused persons and he was not beaten by any of the accused. Similarly, the eye witness Sathishkumar/P.W.3 has stated that because he was dark, he was not able to say, who had beaten him. Another eye witness has also stated that since there was a crowd, he did not know, who has beaten him and that he did not sustain any injury. Same is the statement of P.W.5 also. The remaining two witnesses are official witnesses.

4. It is the contention of the learned Counsel for the petitioner that for the similarly placed co-accused persons with the same set of facts, the case has ended in acquittal and therefore, no useful purpose would be served in prosecuting the case against present petitioner/ accused person any further, especially, when the witnesses all turned hostile.

5.In order to appreciate his contention, it is necessary to go through the judgment of S.C.No.34 of 2013, wherein, a specific finding has been given to the effect that there is no evidence whatsoever to show that there was an illegal obstruction or abuse by caste name or use of weapons or with regard to causing of injury to any of the prosecution witnesses and therefore, the accused persons are entitled to acquittal.

6.Having regard to the finding in the sessions case in SC.No.34 of 2013, this Court is of the view that continuance of the proceedings against this petitioner would amount to abuse of process of Court and the case has to be quashed. Accordingly, this criminal Original Petition is allowed and the case in SSC No.41 of 2015 is hereby quashed. Consequently, connected Miscellaneous Petitions are closed."

<https://hcservices.ecourts.gov.in/hcservices/>

3. In this quash application, Ravichandran (A-5) is before this Court for quashing the prosecution on the same ground.



4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the first and second respondents.

5. Under normal circumstances, when an accused absconds and later on, seeks for quashment of the prosecution against him on the ground that the co-accused have been acquitted, this Court will be loath to interfere and show any indulgence to the absconding accused. However, in this case, this Court finds that the case of the petitioner is in pari materia with that of Minor (A-1) against whom, the prosecution was quashed in CrI.O.P.(MD) No.9120 of 2016 on 14.06.2016.

6. In view of the above, this Criminal Original Petition is allowed and the prosecution in S.S.C.No.75 of 2016 on the file of the First Additional District and Sessions Court (PCR), Thanjavur, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The First Additional District & Sessions Judge (PCR), Thanjavur.
2. The Deputy Superintendent of Police, Orathanadu Sub Division, Thanjavur District.
3. The Inspector of Police, Orathanadu Police Station, Thanjavur District.
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1cc to M/S. R.MURALI, Advocate, SR.No.55529

Order made in
CrI. O.P.(MD) No.17742 of 2016
Dated: 03.05.2017

SDS/MMS/15.05.2017/3P/6C