

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.8164 of 2018
and Crl.M.P.Nos.4197 and 4198 of 2018

Mottai Bas @ Baskaran

...Petitioner

Vs.

1.State through
The Inspector of Police
Poombukar Police Station
Sirgali (Taluk), Nagapattinam District

2.C.Chinnapillai @ Gunasekaran ... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records pertaining to S.C.No.29 of 2017 dated 01.02.2013 on the file of the Additional Sessions Judge, Mayiladuthurai and quash the same as illegal.

For Petitioner : Mr.P.Palanikumar

For R1 : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed to call for the records pertaining to S.C.No.29 of 2017 dated 01.02.2013 on the file of the Additional Sessions Judge, Mayiladuthurai and quash the same as illegal.

2. The petitioner is facing prosecution in S.C.No.29 of 2017 before the Additional Sessions Judge, Mayiladuthurai along with others for the offences under Sections 147, 148, 294(b), 326 and 307 IPC, for quashing which, this application has been filed.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner is physically handicapped and that on the date of incident, viz., 25.05.2011, he was in his work place at Government Hospital, Nannilam, where he was working as Staff Nurse. In support of this contention, the learned counsel produced a certificate given by a Medical Officer, Government Hospital, Nannilam, to the effect that T.Baskaran, Staff Nurse, was on duty on 25.05.2011 at 7.00 p.m. and on 26.05.2011. Therefore, the learned counsel contended that the prosecution is an abuse of process of law.

5. Per contra, learned Additional Public Prosecutor refuted the contentions.

6. Alibi is a fact relevant under Section 11 of the Evidence Act and requires to be established like any other fact during trial. In a quash application, where disputed questions of fact are involved, alibi cannot be a ground for quashing the prosecution. Hence, this petition is dismissed with liberty to the petitioner to raise all the points before the trial Court after charges are framed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
Poombukar Police Station
Sirgali (Taluk), Nagapattinam District.

2.The Additional Sessions Judge,
Mayiladuthurai .

3.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.8164 of 2018

nr 20/08/2018