

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P.No. 22666 of 2018

and CrI.M.P.Nos.12581 & 12582 of 2018

Manappari Thamizh Azhagan @
Thamizh Azhagan

..Petitioner/Accused No.13.

Vs

1. State by Deputy Superintendent of Police,
Perambalur Sub-Division,
Perambalur. ..Respondents 1 and 2 /
Complainant.
2. State by
Inspector of Police,
Kunnam Police Station,
Perambalur District.
3. Karuppaih ..3rd Respondent /
Defacto Complainant.

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the proceedings in PRC.No.08 of 2016 pending on the file of the learned Judicial Magistrate at Perambalur against the petitioner concern.

For Petitioner : Mr.G.Padmanapan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

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O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in PRC No.8 of 2016, pending on the file of the learned Judicial Magistrate, Perambalur.

2. The case of the prosecution is that on 19.01.1994 at 6.00 p.m., when the Ambedkar Youth Welfare Association conducted a public meeting near Veppur Bus Stand, the accused 1 to 64 found in the charge sheet had unlawfully assembled armed with aruval and stick, restrained the prosecution witnesses and

their party men and assaulted them with sticks and aruval and degraded them with their caste name in public place and caused damage to the public property. Hence, the charges were framed and totally 64 persons were arrayed as accused, in which the petitioner is the 13th accused. The present petition is filed to quash the charged sheet against him.

3. The learned counsel for the petitioner also pointed out that as of now, 33 co-accused were acquitted by the learned Principal District and Sessions Judge, Perambalur in Special Sessions Case No.8 of 2011, dated 01.11.2012. Further, 7 accused were also acquitted by the learned Principal District and Sessions Judge, Perambalur in Special Sessions Case No.5 of 2011 dated 09.12.2016 and 6 of the accused had died. Since, the cause of action in respect of all the accused is one and the same and the overt act against the other co-accused as well as the petitioner is identical, the learned counsel for the petitioner submitted that the petitioner is also entitled for the same relief. It is also submitted by the learned counsel for the petitioner that the alleged occurrence is said to have taken place on 19.01.1994 and the final report came to be filed after nine years i.e. on 19.03.2003. Hence, it is the case of the petitioner that the fair and speedy trial has been denied and sought for quashing the proceedings.

4. The learned Additional Public Prosecutor submitted that the charges have been laid against the petitioner on the basis of the available materials found at the place of the occurrence and therefore the petitioner has been properly implicated in the present case.

5. I have carefully considered the submissions of the learned counsel for the petitioner as well as the learned Additional Public Prosecutor.

6. It is relevant to point out that one of the accused person who was arrayed as A41, approached this Court and filed CrI.O.P.No.5053 of 2017, seeking to quash the proceedings. It will be relevant to extract the portion of the order passed by this Court, while quashing the proceedings insofar as A41 is concerned.

"Before going into the grounds raised by the learned counsel for the petitioner, it is seen that the prosecution has tried to establish the case through various eye witnesses. On a perusal of the statements made by these eyewitnesses, it is manifestly clear that none of the eyewitnesses have attributed specific overt act to the petitioner. Further, the weapons alleged to be used for the commission of crime have not been seized and produced as

Material Objects in the present case. Above all, all the witnesses have made ambiguous statements, implicating all the 64 accused without specifically alleging the crime and in the absence of the same, it can only be concluded that the charge sheet filed is improper. I have taken into consideration of the fact that out of the 64 accused, 40 accused have already been acquitted on merits and on the basis of the acquittal orders placed before me, it is seen that the judgments were pronounced after due consideration of the various materials placed before the trial court. Since, the petitioner's case is also similar to that of the other co-accused, the benefit of acquittal can be extended to the petitioner also."

7. From the above, it is clear that the very same ground is available infavour of the petitioner also. The benefit of acquittal of the other co-accused persons can be extended to this petitioner also. The available evidence and records cannot be treated or read differently for this petitioner.

8. In the result, the Criminal Original Petition is allowed. The proceedings in PRC.No.8 of 2016 on the file of the Judicial Magistrate, Perambalur, pending as against the petitioner is quashed. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IX)

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Sub Assistant Registrar

lpp/kmm

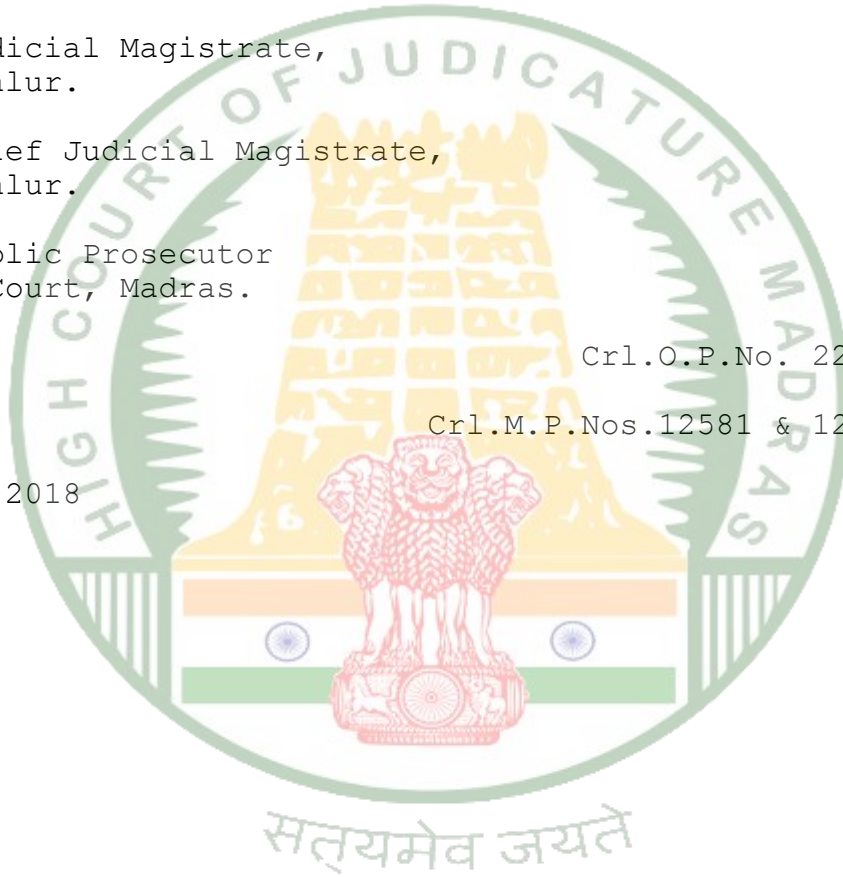
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To

1. The Deputy Superintendent of Police,
Perambalur Sub-Division,
Perambalur.
2. The Inspector of Police,
Kunnam Police Station,
Perambalur District.
3. The Judicial Magistrate,
Perambalur.
4. The Chief Judicial Magistrate,
Perambalur.
5. The Public Prosecutor
High Court, Madras.

RV[CO]
SSM/30.11.2018

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