

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2018

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

CrI.O.P.No.311 of 2013

1.Poovizhi @ Shaila
2.Maragathammal @ Maragathamani
3.Balakrishnan
4.Rajeswari @ Rajamani
5.Subramaniam
6.Palaniammal
7.Rajendran
8.V.P.Sethupathy
9.Indhirani
10.Annadurai
11.Bhagyam
12.Selvarajan
13.Saravanan
14.Gomathy
15.Antony Raj ..Petitioners

Vs.

1.A.Kumaragurubaran
2.State represented by
Sub Inspector of Police,
Mettur, Salem ..Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in C.C.No.72 of 2012 on the file of learned Judicial Magistrate I, Salem and quash the same.

For Petitioners: Mr.UM.Ravichandran

For Respondents: No Appearance for R1

Mr.M.Mohammed Riyaz, APP for R2

O R D E R

Petitioners who faced trial for offence u/s. 160 IPC in case tried in STC.No.544 of 2009 and have been acquitted under judgment of learned Judicial Magistrate No. I, Salem dated 20.09.2010 have moved the present petition seeking quash of proceedings in C.C.No.72 of 2012 for alleged offence u/s. 147, 148, 294(b), 323, 325, 448, 354 and 506(ii) r/w 149 of IPC.

2. Heard learned counsel for petitioner and the learned Additional Public Prosecutor for Second respondent. There is no representation for first respondent/complainant.

3. Both the case in which the petitioners stand acquitted as also the case complained of in C.C.No.72 of 2012 arise out of same occurrence of date 01.04.2009. It is to be seen that both S.T.C.No.544 of 2009 and C.C.No.72 of 2012 are in respect of offences under the Indian Penal Code. Sec.26 of the General Clauses Act would permit separate prosecutions for distinct offences under distinct Acts which arise out of one and same transaction. But in the instant case both S.T.C.No.544 of 2009 and the private complaint in C.C.No.72 of 2012 allege offences under the Indian Penal Code. Therefore, the prosecution in C.C.No.72 of 2012 would not be permissible.

For the said reasons, the Criminal Original Petition is allowed. The proceedings in C.C.No.72 of 2012 on the file of learned Judicial Magistrate I, Salem, is quashed.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate I,
Salem.

2.The Chief Judicial Magistrate, Salem

3.The Sub Inspector of Police,
Mettur, Salem

4.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.V.Sekar, Advocate SR.NO.39844 dt.27.8.2018

+2cc to M/s.UM.Ravichandran, Advocate SR.NO..No.39851 dt.27.8.18

sm:27.8.2018

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Cr1.O.P.No.311 of 2013