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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.10.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.19230 of 2018
and
Crl.M.P.(MD)No.8652 of 2018

Kaviarasan ... Petitioner

Vs.

1. State Rep. by
   The Inspector of Police,
   Pattukkottai Police Station,
   (Crime No.839 of 2008)
   Thanjavur District.

2. V.Arulmurugan ... Respondents

PRAYER:- Petition filed under Section 482 of Criminal Procedure Code seeking to call for the records pertaining to the charge sheet in S.C.No.67 of 2012 on the file of the learned III Additional District and Sessions Court, Pattukottai, Thanjavur District and quash the same as illegal with regard to the petitioner.

For Petitioner : Mr.A.Prasanna Rajadurai

For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor
for R.1

ORDER

This Criminal Original Petition is filed seeking to quash the proceedings in S.C.No.67 of 2012, pending before the III Additional District and Sessions Court, Pattukottai, Thanjavur District.

2. The petitioner along with ten other persons were arrayed as accused by the respondent police in Crime No.839 of 2008 for the offence under Sections 147, 148, 118, 332, 307, 120(b) IPC and

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Section 27 of Indian Arms Act. The respondent Police, after investigation, filed a final report and the same was taken on file in P.R.C.No.35 of 2009. Since this petitioner (A5) and two others, ie., A2 & A9, were absconding, the case was split up and the trial was conducted insofar as the other accused persons in S.C.No.75 of 2010, on the file of the III Additional District and Sessions Court, Pattukottai, Thanjavur District.

3. The learned III Additional District and Sessions Judge, Pattukottai, Thanjavur District, by judgment dated 16.10.2015, acquitted all the other accused persons, namely, A1, A3, A4, A6, A7, A8, A10 & A11, on the ground that the case has not been proved against them beyond reasonable doubt by the prosecution.

4. The petitioner before this Court is the fifth accused. The learned Counsel for the petitioner would submit that in view of the acquittal of all the other accused persons in the split up case, the said judgment will enure to the benefit of this petitioner also. The learned Counsel would further submit that the nature of allegation that has been made against all the accused persons is similar and therefore, since the concerned Court has found that there is no evidence as against other accused persons, the same will apply to the petitioner also. The learned Counsel for the petitioner also brought to the notice of this Court the judgment passed by this Court in Crl.O.P.(MD)No.1310 of 2018, dated 27.09.2018, where this Court had dealt with a case of similar nature.

5. The learned Additional Public Prosecutor would submit that the case was split up only due to the fact the petitioner was absconding. He would further submit that even insofar as accused 2 & 9 are concerned, since they were also absconding, there is a split case pending in S.C.No.198 of 2010. The learned Additional Public Prosecutor would submit that insofar as other accused persons, namely, A1, A3, A4, A6, A7, A8, A10 & A11, are concerned, they have been acquitted by the judgment of the Court below made in S.C.No.75 of 2010.

6. The facts of the case is squarely covered by the judgment referred to (cited supra) by the Counsel for the petitioner. In view of the acquittal of eight accused persons, after a full fledged trial and after the Court below found that the prosecution has not proved the case beyond reasonable doubt, the trial Court cannot re-asses the very same deposition of the witnesses insofar as this petitioner is concerned and take a contrary view. No useful purpose will be served by making the petitioner to undergo the ordeal of trial before the Court below.

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7. In the result, this Criminal Original Petition is allowed and the proceedings in S.C.No.67 of 2012 on the file of the III Additional District and Sessions Court, Pattukottai, Thanjavur

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District, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The III Additional District and Sessions Judge,
   Pattukottai,
   Thanjavur District.

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

3. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court,
   Madurai.

+ 1 CC TO Mr.M.VAIKKAM KARUNANITHI, ADVOCATE IN SR No. 92309

GK
TE/SKN/SAR-4 : 31/10/2018 : 3P/5C

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