



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P. (MD) No.19383 of 2018

and

CRL.M.P. (MD) Nos.8779 & 8780 of 2018

Chola @ Cholairaja

.. Petitioner/Accused No.3

-Vs-

State through by

1.The Inspector of Police,
Melattur Police Station,
in Crime No.101 of 2009,
Thanjavur District.

.. 1st Respondent/Complainant

2.Gopapathi

.. 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the charge sheet in S.C.No.31 of 2018 before the Additional District & Sessions court under(Essential Commodities Act Cases) Thanjavur and quash the same as against this petitioner.

For Petitioner : R.Maheswaran

For Respondents : Mr.K.Suyambulinga Bharathi for R1
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.C.No.31 of 2018 pending on the file of the Additional District and Sessions Court, under (Essential Commodities Act Cases), Thanjavur.

2.The learned counsel for the petitioner would submit that originally the final report was filed by the respondent police as against five accused persons for an offences under Section 120(b) r/w 302 and Section 302 r/w 34 of IPC. Subsequently, A2 died. The case was also split up and the trial Court went ahead with the trial insofar as A1, A4 and A5 are concerned. The Additional District and Sessions Judge by judgment, dated 28.09.2012, acquitted the accused persons who under went trial in S.C.No.44 of 2012 on the ground that the prosecution has not proved the case beyond reasonable doubts and acquitted all the accused persons from all the charges.



3. The learned counsel for the petitioner would submit that the findings rendered in the said judgment will also enure to the benefit of the petitioner. For this purpose, the learned counsel for the petitioner relied upon the judgment in **Tamilmaran Vs. State**, reported in **(2007) 1 MLJ, (Cr1.) 1334**.

4. It is seen from the records that all the co-accused have been acquitted by the Court below by judgment, dated 28.09.2012. The charges framed against the petitioner is also squarely covered by the judgment of the Court below. The Court below cannot independently appreciate the evidence of the witnesses differently for this petitioner. More particularly due to the effect that the charge was under Section 120(b) and Section 34 of IPC. Therefore, in view of the judgment cited supra, the petitioner will also be entitled to the benefit of the judgment of the acquittal passed by the Court below in S.C.No.44 of 2012.

5. In the result, the proceedings pending against the petitioner in S.C.No.31 of 2018 on the file of the Additional District and Sessions Court, under (Essential Commodities Act Cases), Thanjavur, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Additional District and Sessions Judge, (Court under Essential Commodities Act Cases), Thanjavur.
2. The Inspector of Police, Melattur Police Station, in Crime No.101 of 2000, Thanjavur District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.R.MAHESWARAN, ADVOCATE IN SR No. 93469

TM
TE/BK/SAR-2 : 07/12/2018 : 2P/5C