



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.O.P.(MD)No.4754 of 2019

WEB COPY

and Crl.M.P.(MD).Nos.2924 & 2925 of 2019

Ramamoorthy : Petitioner / Accused No. 2

-Vs-

1.State reoresented by its
the Inspector of Police,
Perunazhi Police Station,
Ramanathapuram District.
(Crime No.50 of 2016) : Respondent / Complainant

2.Balamurugan : Respondent / De facto
Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in P.R.C.No.28 of 2017, on the file of the learned District Munsif cum Judicial Magistrate Court, Kamuthi, Ramanathapuram District in Criome No.50 of 2016, on the file of the first respondent Police and quash the same.

For Petitioner : Mr.A.Uthayakumar

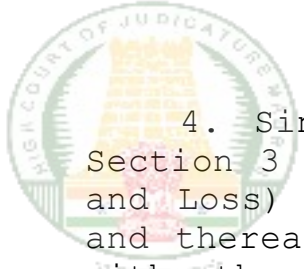
For R1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in P.R.C.No.28 of 2017, on the file of the learned District Munsif-cum-Judicial Magistrate Court, Kamuthi, Ramanathapuram District in Criome No.50 of 2016, on the file of the first respondent Police.

2. Heard the learned counsel appearing for the petitioner and learned Government Advocate(Crl.side) appearing for the first respondent police.

3. Totally, there were ten accused. After completion of investigation, a final report was laid in terms of the offences under Sections 147, 148, 294(b), 323, 324, 506(2) I.P.C and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 as against A3 to A10. As against A1 and A2, the trial Court has framed charges for the offences under Sections 148, 294(b), 323 I.P.C. Therefore, the case came to be split up.



4. Since A3 to A10 were charged for the offence one under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act also, the case was committed to the Session Court and thereafter, charges were framed. The Sessions Court proceeded with the trial of S.C.No.168 of 2017. During trial, the prosecutor has examined as many as 9 witnesses. But during the trial, all the witnesses had turned hostile. As no material was available to enter a findings of guilt as against A3 to A10 in S.C.No.168 of 2017, the Sessions Court acquitted them Vide its judgment dated 27.08.2018. So far as A2 is concerned, the case is now pending in P.R.C.No.28 of 2017 on the file of the learned District Munsif cum Judicial Magistrate Court, Kamuthi, Ramanathapuram District. The petitioner is arrayed as accused No.2, who is before this Court for quashing the proceedings as against him.

6. The learned counsel appearing for the petitioner/A2 submitted that inasmuch as all the material witnesses have turned hostile during the trial in S.C.No.168 of 2017, it won't be a profitable exercise to force the petitioner to undergo trial.

7. The learned Government Advocate (Crl. Side) appearing for the first respondent police submitted that the petitioner has surrendered before the Court and he is now on bail.

8. This Court perused the entire papers.

9. Both the parties were before the Sessions Court in S.C.No.168 of 2017. Since the overtact attributed as against the petitioner/A2 is same one against accused No.1, with all the witnesses turning hostile without speaking to any material facts that may be necessary for the court to conduct a trial and to enter a finding of guilty, to direct the Court to hold trial will be a profitless endeavour and a waste of time.

10. In view of the above, this Court quashes the proceedings in P.R.C.No.28 of 2017, on the file of the learned District Munsif cum Judicial Magistrate Court, Kamuthi, Ramanathapuram District.

11. In fine, this Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)



To

1.The District Munsif cum Judicial Magistrate Court,
Kamuthi, Ramanathapuram District

2.The Chief Judicial Magistrate,
Ramanathapuram District

3.The Inspector of Police,
Perunazhi Police Station,
Ramanathapuram District.

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

+1 CC to M/s.A.UTHAYA KUMAR, Advocate (SR-59085[F] dated
04/04/2019)

tsg/cm

Order made in
CRL.O.P.(MD) No.4754 of 2019
Dated: 03.04.2019

KM/(22.04.2019) 3P 6C