



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) .No.13245 of 2017

and

Crl.M.P. (MD) Nos.8968 & 8969 of 2017

1) Thangakumar

2) Sakthi Selvam ...Petitioners/ Juveniles

vs.

1) State rep by
The Deputy Superintendent of Police,
Rural Sub Division,
Thoothukudi District,
(Crime No.14/2012 on the
file of Murappanadu P.S.,
Thoothukudi District). ... R-1/ Complainant

2) Perumal ... R-2/ De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in J.C.No.210 of 2017 on the file of the Juvenile Justice Board, Thoothukudi and quash the same.

For Petitioners : Mr.K.Sivabalan
For R-1 : Mr.M.Chandrasekaran,
Additional Public Prosecutor

O R D E R

This Criminal Original petition has been filed seeking to quash the proceedings in J.C.No.210 of 2017 which is pending on the file of the Juvenile Justice Board, Thoothukudi.

2. The respondent police filed a final report as against 14 accused persons and the petitioners are ranked as A-6 and A-13. Since these petitioners were juveniles on the date of occurrence, the final report was filed before the Juvenile Justice Board,



Thoothukudi. In the mean time, A-1 to A-5, A-7 and A-12 and A-14 faced trial before the II Additional District and Sessions Court, Tirunelveli in S.C.No.26 of 2014.

3. The prosecution examined P.W.1 to P.W.11 and marked Ex.P.1 to Ex.P.14 in order to substantiate their case. The case of the prosecution is that there was a festival on the eve of Pongal in the village and at that point of time, the accused persons are said to have assembled and abused the victim in filthy language, using his caste name and had also attacked him with a stick resulting in bleeding injuries. The charges were framed against other accused persons in S.C.No.26 of 2014, for an offense under Sections 147, 294(b), 323 and 506(ii) of IPC read with Section 3 (i) (X) of SC/ST Act.

4. A reading of the judgment passed by the trial Court shows that the entire case of the prosecution was dependent on the evidence of P.W.1. This witness had turned hostile and he did not support the case of the prosecution. In the same way, the other important witnesses also turned hostile. The finding of the trial Court in S.C.No.26 of 2014 is extracted hereunder:

"16. The entire prosecution is revolving around there was a quarrel between the community of the accused as well as the community of the victim in which the accused persons said to have assaulted the witnesses and had abused them in their case name and in filthy words. Though the witnesses P.W.1 to P.W.6, speak regarding the clash between two groups, but they would state that they are not able to fix the identity of the accused persons. Admittedly, in the present case, P.W.1 has given a statement to P.W.10. But the contents of the same in the signature of P.W.1 and the entire meaning of complaint as specifically attributed overt act as against the accused But the ocular testimony of the witnesses otherwise they are not able to identify the accused. Admittedly in the present case that even as per the evidence of the witnesses there was a group clash between two community people , but in the present case, the case was registered against one side of people and it was not able to fix the aggressors on registration of one side of people and it is not known whether the other side of people injured or not? But at any cost, all the witnesses have not supported the prosecution, but stated not able to fix the identify all the accused. Though the Ex.P.4 containing the signature of P.W.1 certainly attributed overt act as against the accused. But since the same may not have enough and near the guilt of the accused.



18. In view of the above discussion that I hold that the prosecution failed to prove the charges beyond reasonable doubt much less with any sufficient evidence and the accused are entitled to be acquitted and the bail bonds executed by them and on their behalf shall stand discharged".

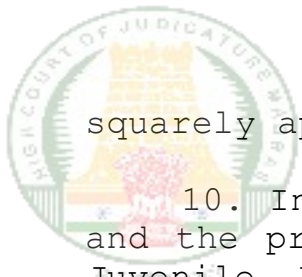
5. The learned counsel for the petitioners submitted that the petitioners are also placed on the same footing to that of the other accused persons, who have been acquitted by the trial Court. The learned counsel by placing reliance on (i) **Central Bureau of Investigation vs. Akhilesh Singh** reported in AIR 2005 Supreme Court 268; (ii) **Tamilmaran vs. State rep. by the Inspector of Police, Tiruvarur District** reported in (2207) 1 MLJ (cr1) 1334; (iii) **Thamilendi vs. State rep. by Inspector of Police, Thanjavur District** reported in 2008 (2) CTC 153 and (iv) **Chinnappa @ Mahendran vs. State, rep. by the Inspector of Police, Thanjavur District** reported in 2015 (1) MWN (cr.) 259 submitted that the benefit of acquittal should be extended to the petitioners also by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

6. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the petitioners will have to be tried separately before the Juvenile Justice Board, Thoothukudi. The learned counsel further submitted that the benefit of acquittal of the other accused persons cannot be extended to the petitioners and they have to face trial before the Juvenile Justice Board, Thoothukudi.

7. This Court has carefully considered the submissions made on either side and also the materials available on record.

8. A reading of the judgment of the trial Court in S.C.No.26 of 2014 wherein, all the other accused persons were acquitted, clearly shows that the witnesses have not supported the case of the prosecution and the prosecution has failed to prove the case beyond reasonable doubt. The findings that has been rendered insofar as A-1 to A-5, A-7 and A-12 and A-14, will equally apply to the petitioners also.

9. It is now well settled that this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. can extend the benefit of acquittal to the petitioners also if they are also placed on the same footing. No useful purpose would be served by making the petitioners undergo the ordeal of trial. The judgment that have been cited by the learned counsel for the petitioners will



squarely apply to the facts of the present case.

10. In the result, this Criminal Original Petition is allowed and the proceedings in J.C.No.210 of 2017 pending on the file of Juvenile Justice Board, Thoothukudi is hereby quashed and the petitioners are acquitted from all charges. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1) The Juvenile Justice Board,
Thoothukudi.
- 2) The Deputy Superintendent of Police,
Rural Sub Division,
Thoothukudi District,
- 3) The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District).
- 4) The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.K. SIVABALAN, Advocate (SR-101870[F] dated
27/11/2019)

Order made in
CrI.O.P. (MD) .No.13245 of 2017
26.11.2019

sts

AE/ (03.01.2020) 4P 6C