

Crl.OP.No.572 of 2020

G.K.ILANTHIRAIYAN, J.

At the instance of the learned counsel for the petitioner, today this matter has been posted under the caption “for being mentioned”.

2. Heard, the learned counsel for the petitioner.

3. It is ordered that the entire orders passed in Crl.OP.No.572 of 2020 dated 16.03.2020 shall read as follows:

"The brief facts of the case are as follows;

On 08.05.2010, the second respondent police had registered a case in Crime No. 141 of 2010 against the petitioner herein and four others for offences under Section 147,148,323 and 324 IPC r/w. 3(1)(X) and 3(II)(V) of SC/ST Act 1989.

2. The petitioner herein who was a minor on the date of occurrence has been arrayed as the 2nd accused in the said crime. According to the prosecution, on 07.05.2010, while the

defacto complainant along with his friends were watching cricket match, the defacto complainant had received a phone call from some unknown person, calling upon him to come to the bus stand. Pursuant to that, an assault is alleged to have occurred in the bus stand. The defacto complainant was taken to the hospital, wherein he had given a statement and based on that, the FIR came to be registered against the petitioner and others.

3. Since the petitioner was a juvenile at the time of the occurrence, charges came to be framed against A1,A3 and A5 before the learned Principal District and Sessions Judge, Perambalur in Spl.S.C.No. 19 of 2013 and by judgment dated 11.12.2013, all the three accused were acquitted after due trial. The Overt acts as against the petitioner herein is less severe, while compared to the overt acts attributed to A1,A3 and A5. As a matter of fact, it is the case of the petitioner herein that no charge sheet has been filed against the petitioner and as such there is no overt act as against this petitioner.

4. I have carefully considered the submissions made by the respective counsels.

5. As rightly pointed out by the petitioner that in the judgment in Spl.S.C. No. 19 of 2013, the Accused viz., A1,A3 and A5 were acquitted after due trial. According to the learned Principal District and Sessions Judge, Perambalur, on consideration of the evidences of the prosecution witnesses, the trial Court had come to the conclusion that the prosecution has not established their case and proved the charges against the accused A1,A3 and A5 beyond reasonable doubt.

6. On a perusal of the evidences let in by the prosecution in the aforesaid case, there is no reference to any overt act insofar as the petitioner herein is concerned.

7. In the absence of any overt act as against the petitioner and in the light of the judgment of the learned Principal District and Sessions Judge, Perambalur, acquitting the

accused A1,A3 and A5, I am of the view that the petitioner is also entitled to succeed in the present petition. There are no materials placed before this Court to establish that the charge sheet has been laid as against this petitioner before the Juvenile Board.

8. *In the result, the Criminal Original Petition stands allowed. The records pertaining to Crime No. 141 of 2010 on the file of the respondents 1 and 2 insofar as the petitioner is concerned, is quashed."*

4. Accordingly, the Registry is directed to issue a fresh order copy in Crl.OP.No.572 of 2020 dated 16.03.2020 as above.

12.02.2021

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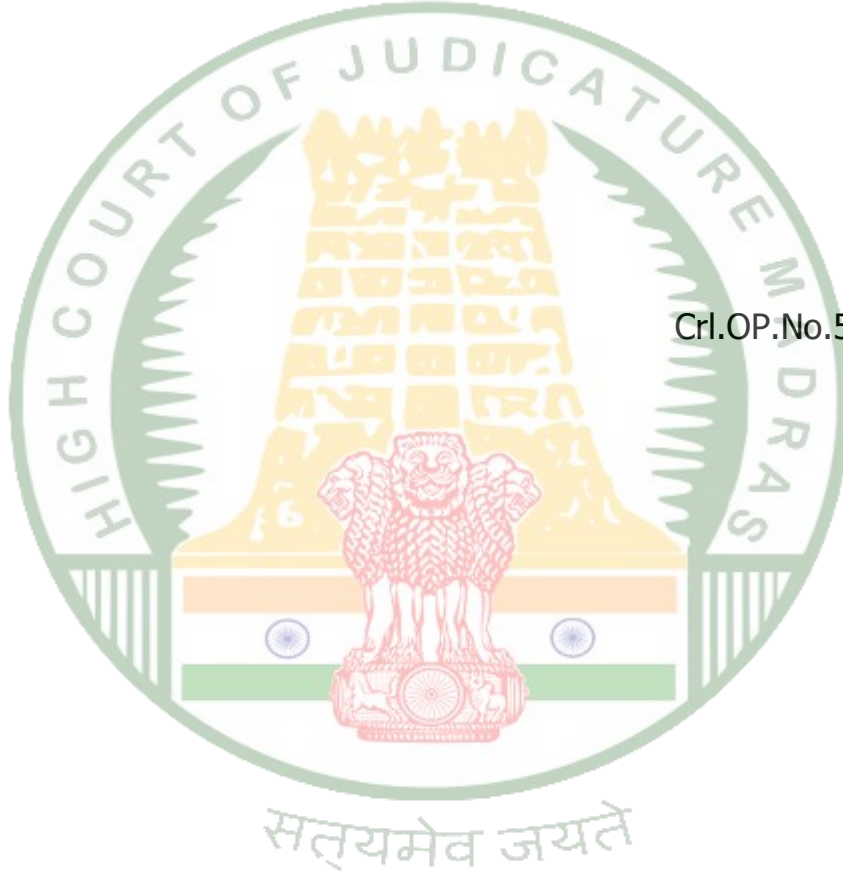
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G.K.ILANTHIRAIYAN, J.

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