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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P (MD)No.11298 of 2020

and

CrI.M.P. (MD)No.5149 of 2020

R.David

... Petitioner

Vs.

1.State represented by

The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.
(Crime No.563 of 1997)

2.Rakesh

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the records pertaining to the proceedings in S.C.No.148 of 2019 on the file of the learned Additional Sessions Court, Kanayakumari District at Padmanabhapuram and quash the same as against the petitioner herein.

For Petitioner : Mr.R.Pon Karthikeyan

For R1 : Mr.V.Neelakandan,

Additional Public Prosecutor

ORDER

This criminal original petition has been filed for quashing the proceedings in S.C.No.148 of 2019 on the file of the Additional District and Sessions Court, Kanayakumari District at Padmanabhapuram.

2.The petitioner was originally shown as A7 in Crime No.563 of 1997 registered on the file of the first respondent for the offences under Sections 147, 148, 324, 307, 396, 448 and 427 of I.P.C. and Section 3 of Explosive Act. Investigation was conducted and final report was filed against 13 accused. Unfortunately, the petitioner absconded. Hence, the case was split up. S.C.No.155 of 2004 proceeded against A1, A6, A8, A9, A12 and A13. As against A5 and A11, the case was also earlier split up and taken up as S.C.No.286 of 2017. As against A10, the split up case was numbered as S.C.No.264 of 2017. All the three cases were taken together and by a common judgement dated 04.08.2018, all the three cases ended in acquittal. In the split up case of S.C.No.148 of 2019, A2, A3, A4 and A7 are facing trial. A2 is said to be absconding. A7 alone has come before this Court for quashing the proceedings as far as he is concerned.



3.The learned counsel appearing for the petitioner places reliance on the order dated 22.10.2019 made in CrI.O.P.(MD)No.15074 of 2019. A learned Judge of this Court in paragraph 10 had held as follows:-

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"10.Further, this Court and various High Courts repeatedly held that the acquittal of the other co-accused, after considering the depositions and holding their evidence to be unreliable, the trial Court cannot re-assess their depositions once again and take a contrary view. Therefore, this Court is of the considered view that the above settled proposition of law laid down in the above decision is squarely applicable to the case on hand."

4.This Court therefore wanted to know if the witnesses examined earlier had testified anything against the petitioner herein. To enable the learned Additional Public Prosecutor to make a statement in this regard, the case was adjourned. Today i.e., 29.10.2020 when the matter was taken up for hearing, the learned Additional Public Prosecutor on instructions and after going through the earlier depositions made a categorical statement that the petitioner herein namely, R.David has not been implicated by any of the witnesses in earlier trial. Therefore, it is a case of zero evidence against the petitioner. In this view of the matter, the impugned proceedings stand quashed as far as the petitioner is concerned. This criminal original petition is allowed accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1.The Additional District and Sessions Court,
Kanayakumari District
At Padmanabhapuram.



2.The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.

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

+1 CC to M/s.R.PONKARTHILEYAN, Advocate (SR-20837[F] dated
02/11/2020)

Crl.O.P (MD) No.11298 of 2020
29.10.2020

ss (CO)
KK(08.12.2020) 3P 5C