



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.10421 of 2019

and

Crl.M.P.Nos.5397 & 5398 of 2019

1. Shafikkur Rahman
S/o. Mohamed Hanifa

2. A.R.Marjuk
S/o. Abdul Rasheed

3. Iqbal
S/o. Jecriya

...Petitioners/Accused

Vs.

1. The State rep. By
The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District.
(Crime No.142 of 2008)

...Respondent

2. Abdulla Bijee
S/o. Abdul Basheer

...Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C, prayed to call for the records and quash the charge sheet in P.R.C.No.02 of 2012 pending on the file of the District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore District.

For Petitioners : Mr.G.Pugazhenth

For Respondent : Mr. R.Vinoth Raja
Government Advocate (Crl. Side) for R-2

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in P.R.C.No.02 of 2012 pending on the file of the District Munsif cum Judicial Magistrate, Kattumannarkoil, Cuddalore District.



2. The learned counsel for the Petitioners submits that the Petitioners herein are arrayed as A10, A-17 and A-44 before the learned Sessions Judge, Cuddalore. As per the charge sheet, there were 66 Accused. Only 21 Accused were faced the trial. The learned trial Judge/learned Principal Sessions Judge by his Judgment dated 16.11.2018 had acquitted all the Accused. The learned counsel for the Petitioners invited attention of this Court to Page Nos.85 and 86 of the typed set of papers where the learned Sessions Judge had relied on the relevant portion of the evidence of the witnesses.

3. On perusal of the same, it is found that the occurrence had been narrated by the witnesses, but none of the Accused had been identified individually. It was a case of 60 people prevented the celebration of Urus festival by the defacto complainant. It is the accepted principle in criminal law that the allegations levelled by the Prosecution against the Accused had to be proved beyond reasonable doubt.

4. Also it is an accepted principal that 1000 culprits can escape but one innocent should not be punished. In this case, there are 66 persons were arrayed as Accused. But the witnesses were unable to identify who were all part of the unlawful assembly and caused damages to the lights on the date of celebration of Urus Festival. Therefore, the learned Sessions Judge acquitted all the 21 Accused.

5. The learned counsel for the Petitioner also placed reliance on the Order passed by this Court in CrI.O.P.No.10507 of 2019 dated 22.04.2019 which was filed by some other Petitioners regarding the other Crime No. 143 of 2008.

6. On perusal of the order of the learned Sessions Judge, it is found that the learned Judge on proper appreciation had acquitted 21 Accused.

7. The learned Government Advocate (CrI. Side) on behalf of the Prosecution takes this Court to the line of the argument of the learned counsel for the Petitioners that since the trial Court is seized of the matter and Petitioners had been shown as absconding Accused let them approached the trial Court.

8. The submission of the learned Government Advocate (CrI. Side) cannot at all be accepted on the ground that even if they appear, it will not serve any useful purpose to the Prosecution. It is waste of Court's time in recording evidence. On appreciation of the evidence in the trial by the learned Sessions Judge and on perusal of the deposition which is available in the typed set, it is found that none of the Accused had been individually identified by the witnesses. Therefore,



no purpose would be served by dismissing this petition and directing the Petitioner to approach the trial Court and cooperate the trial.

In the light of the above observations, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Kattumannarkoil, Cuddalore District.
2. The Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court, Chennai.

+1cc to M/s.G.Pugazhenthii, Advocate, S.R.No.22282

Cr1.O.P.No.10421 of 2019

SSN(CO)
RGA(08/04/2022)