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Crl.OP.No.24667 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P. No.24667 of 2022
and Crl.MP.Nos.15523 & 15518 of 2022

Marakayar Sait

... Petitioner

Vs.

1. The Sub Inspector of Police,
Town Police Station, Vaniyambadi
Thirupathur District.

2. Mukthar Ahamed

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.146 of 2017 on the file of the learned Judicial Magistrate, Vaniyambadi, Thirupathur District and quash the same against the petitioner.

For Petitioner : Mr.S.Sasikumar

For Respondents : Mr.S.Santhosh
Government Advocate (Crl.side) for R1

ORDER

This criminal original petition has been filed to call for the records in C.C.No.146 of 2017 on the file of the learned Judicial Magistrate,



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Vaniyambadi, Thirupathur District and quash the same.

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2. The learned counsel for the petitioner submitted that the petitioner along with the other accused has been prosecuted by the respondent police in Crime No.1180/2004 for the offences punishable under Sections 147, 148, 447, 323, 324 & 506(ii) IPC. In this case, the respondent police filed a final report before the learned Judicial Magistrate, Vaniyambadi, Thirupattur against the petitioner and four others and the same has been taken on file in C.C.No.190 of 2005. Since the petitioner was not secured for the purpose of trial the case has been split up against the petitioner in C.C.No.146 of 2017 and A3 Sukkur alone has been contested the case in C.C.No.190 of 2005. After trial, the trial Court acquitted A3 on 31.05.2019 on the ground that no evidence against A3. Therefore since the case against A3 is acquitted on the ground that no evidence is available, the criminal proceedings as against the petitioner also should be quashed.

3. The learned Government Advocate (Crl.side) submitted that the case has been split up from C.C.No.190 of 2005 as against this petitioner and other accused and the same has been taken on file in C.C.No.146 of 2017 and it is now posted for trial on 11.10.2022.



4. Heard both sides and perused the materials available on record.

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5. On a perusal of the records, the fact reveals that the petitioner along with other accused was prosecuted by the respondent police for having committed offences punishable under Sections 147, 148, 447, 323, 324 & 506(ii) IPC in Crime No.1180 of 2004. After filing final report, the case has been taken on file in C.C.No.190 of 2005 and the trial Court for non appearance of the petitioner and other accused issued NBW against the petitioner and three others and NBW is pending against the petitioner and other accused. Since the case is pending from the year 2005, the case against this petitioner and other accused has been split up in C.C.No.146 of 2017 and the case in C.C.No.190 of 2005 against A3 alone continued. After examining the prosecution witnesses, since no evidence was let in by the prosecution against A3, the trial Court acquitted A3. PW1 Mukthat Ahamed in his evidence before the trial Court clearly stated that the petitioner and other accused assaulted with iron rod on his head and mouth and they also assaulted his brother Riyaz Ahamed and thereafter went to Vaniyambadi Government Hospital for treatment. Since PW1 statement is against the petitioner, the petitioner has to face trial. Therefore, it is not proper to quash the criminal proceedings against this petitioner when there is an evidence



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against him and it does not meet the parameters laid down by the Supreme

WEB COURT in *State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)*, M/s

Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others

(2021 SCC online 315) & PRATIBHA RANI Vs.SURAJ KUMAR & ANR

(1985 Crl.L.J.817). Therefore, it is inappropriate to quash the C.C.No.146 of

2017 on the file of the Judicial Magistrate Court, Vaniyambadi, Thirupathur

district. Hence, I find no merit in this petition and the same is liable to be

dismissed.

6. Accordingly, the criminal original petition stand dismissed.

Consequently, connected miscellaneous petitions are closed.

12.10.2022

Index : Yes/No

Speaking/Non speaking order

dpq

To

1. The Sub Inspector of Police,
Town Police Station, Vaniyambadi
Thirupathur District.

2. The learned Judicial Magistrate,
Vaniyambadi, Thirupathur District

3. The Public Prosecutor,
High Court of Madras.



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V. SIVAGNANAM, J.

dpq

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