



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.19059 of 2019

and

Crl.MP (MD)Nos.11188 and 11189 of 2019

A.Anbalagan : Petitioner/Accused Name
not mentioned in the FIR

Vs.

1.State rep. By
The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(In Crime No.474 of 2008) : R1/Complainant

2.Subbaraj : R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in PRC No.6 of 2009 pending on the file of the Additional District Munsif-cum-Judicial Magistrate, Manamadurai, Sivagangai District and quash the same as illegal so far as the petitioner is concerned.

For Petitioner : Mr.R.Venkateswaran

For 1st Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)

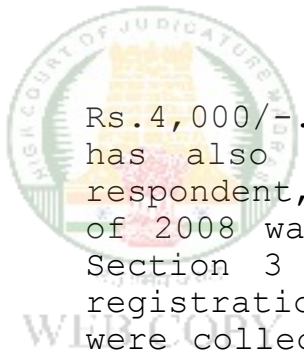
For 2nd Respondent : No appearance

O R D E R

This criminal original petition is filed seeking quashment of the case in PRC No.6 of 2009 pending on the file of the Additional District Munsif-cum-Judicial Magistrate, Manamadurai, Sivagangai District.

2.The case of the prosecution in brief:-

On 11/09/2008, when the petitioner along with the other accused persons were proceeding to Immanuel Sekar Gurupooja in their vehicle, caused damage to the Government Transport Corporation bus bearing registration No.TN-63-N-1208 by pelting stones and thereby, caused damage to the front windscreen of the bus worth about



Rs.4,000/- . Because of pelting of the stones, the driver of the bus has also got injury. Based on the complaint given by the 2nd respondent, who was the driver and injured, a case in Crime No. 474 of 2008 was registered for the offences under Section 336 IPC and Section 3 of the TNPPDL Act and in pursuance of the above said registration of the case, investigation was undertaken and materials were collected and final report was also filed before the committal court namely the District Munsif-cum-Judicial Magistrate, Manamadurai, which was also taken cognizance in PRC No.6 of 2019.

3. Seeking quashment of the same, this petitioner, who is stated to be the third accused in this case, has filed this quash petition mainly on the ground that he is not involved in the occurrence and the real accused name is Anbalagan, whereas his father name is Gurusamy and by wrong identification of the accused, the police pressuring him to appear before the court.

4. Heard both sides.

5. As stated in the final report as well as in the complaint, it is seen that the accused persons, who were proceeding to celebrate the Immanuel Sekar Gurupooja, on 11/09/200 at about 12.45 pm, involved in rioting and caused damage to the Government Bus bearing registration No.TN -63-N-1208. The de-facto complainant was not able to identify the person, who pelted the stones and caused injury as well as damage. Later, he came to know that the accused were proceeding to Manamadurai to take part in the Gurupooja of Immanuel Sekar. But however, how the persons were identified during the course of investigation is not understandable.

6. The entire CD file has been called for and perused, wherein we find that no identification parade had been conducted by the Investigating Officer. Only based upon the oral statement of the witnesses, the final report has been filed, even without verifying the accused identification, who is the owner and driver of the Mahendira vehicle bearing registration No.TN-67-CV-8064, which was hired by Ravichandran, Murugan @ Vadivel Murugan, Anbalagan, Jothi and Mohan, approached him for hiring the vehicle and they are about 12 numbers identified the vehicle on the way. But how this petitioner name has been mentioned in the final report is not understandable as mentioned earlier. More over, it is stated that his father name has been wrongly mentioned in the final report. But no alternation report has been filed. The case, which was filed in 2008 has been dragged on all these years without any progress. Non holding of identification parade of the accused persons in the alleged occurrence goes root of the prosecution. So, solely on that ground, the prosecution against the petitioner is liable to quashed. At the end of the final report, this petitioner is shown as absconding accused in the final report.



7.In the result, this criminal original petition is allowed. The impugned proceedings in PRC No.6 of 2009 pending on the file of the Additional District Munsif-cum-Judicial Magistrate, Manamadurai, Sivagangai District, is quashed as against the petitioner alone. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

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 Munsif-cum-Judicial Magistrate,
Manamadurai, Sivagangai District.
- 2.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD)No.19059 of 2019
08/03/2022

RD(06.05.2022) 3P 4C