



Crl.O.P.No.9433 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.10.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.9433 of 2022
and
Crl.M.P.Nos.5506 and 5507 of 2022

1.Kathiresan,
2.Alagiri,
3.Murugesan,
4.Kumaravel,
5.Selvakumar,
6.Kumar,
7.Thivagar,
8.Prabakaran.
Petitioners

..

Vs.

1.State Rep.by
The Inspector of Police,
Attur Police Station,
Salem.

2.Dr.Madhavan

..Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records in S.C.No.195 of 2015 on the file of the Principal District and Sessions Court, Salem and quash



Crl.O.P.No.9433 of 2022

the proceedings, insofar as it relates to the petitioners.

For petitioner : Mr.N.Vijayaraj

For R-1 : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

This petition has been filed to call for the records in S.C.No.195 of 2015 on the file of the Principal District and Sessions Court, Salem and to quash the proceedings, insofar as it relates to the petitioners.

2.The learned counsel appearing for the petitioners submitted that in connection with a clash between two groups in the Attur Government Hospital, the Chief Medical Officer has given a complaint, which has led to the registration of a case against the petitioners in Crime No.1179 of 2017 on the file of the Attur Police Station. Another complaint against the another group was also registered. Both the cases, after investigation, culminated into a Final Report which was taken on file by the Principal District and Sessions Court, Salem and assigned S.C.No.195 of 2015 and S.C.No.196 of 2015. The grievances of the petitioners herein are that in



Crl.O.P.No.9433 of 2022

WEB COPY

the counter complaint which culminated into S.C.No.195 of 2015, the trial was completed and all the accused were acquitted vide judgment dated 15.12.2017, whereas, the very same witnesses were supposed to be witnessed in the other case are yet to be examined and the trial was not completed, though 16 years have lapsed from the date of registering the complaint.

3.The learned Government Advocate (Crl.Side) appearing for the State submitted that the case was pending for trial of 44 accused, out of whom, 7 accused died and the case against one of the accused was split up and the trial was completed. As far as A4 is concerned, this Court has quashed the case against him and for the remaining accused, the trial is posted on 30.10.2023. It is also stated that the trial could not be progressed effectively, since, in alternative, the accused abstained themselves from attending the Court and therefore, the prosecution is unable to proceed.

4.In the petition to quash, it is further submitted that as of now, in



Crl.O.P.No.9433 of 2022

this case, even charges were framed and the witnesses were examined and in the connected case in S.C.No.196 of 2015 which is split up, the accused turned hostile and the Trial Court has acquitted the accused. Therefore, there is no purpose in proceeding against these petitioners who stand on the same footing.

5.This Court when asked the learned counsel appearing for the petitioners as to why the case against one of the accused was split up and proceeded and the case against these petitioners could not be progressed, this Court was unable to get a satisfactory answer.

6.The learned Government Advocate (Crl.Side) submitted that absence of one accused or another and pendency of Non Bailable Warrent is the reason for the delay.

7.As such, split up of a single accused cannot be a reason to acquit all these petitioners who face charges under Sections 147, 427 and 353 I.P.C and the other offences including destruction to the public property.



CrI.O.P.No.9433 of 2022

WEB COPY

Therefore, the request sought to quash the complaint deserves dismissal, since, there is no merit in it.

8. Accordingly, this Criminal Original Petition stands dismissed. Connected miscellaneous petitions are closed. The Trial Court is directed to secure the accused if they are absconding and complete the trial within a period of six months from the date of receipt of a copy of this order.

17.10.2023

Internet : Yes/No

Index: Yes/No

apd/veda

To

1. The Principal District and Sessions Judge,
Salem
2. The Inspector of Police,
Attur Police Station,
Attur.
3. The Public Prosecutor,
High Court of Madras, Chennai.



WEB COPY



Crl.O.P.No.9433 of 2022

Dr.G.JAYACHANDRAN, J.

apd/veda

Crl.O.P.No.9433 of 2022
and
Crl.M.P.Nos.5506 and 5507 of 2022



WEB COPY



CrI.O.P.No.9433 of 2022

17.10.2023