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Criminal Original Petition No.17475 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.17475 of 2023

and

CrI.M.P.No.11398 of 2023

Mohamed Kuthbutheen
S/o.Adul Lathief

...Petitioner

Vs

1.State represented by its
Inspector of Police,
Kodavasal Police Station,
Thiruvarur.
Crime No.201 of 2010

2.Mohammed Iqbal
S/o.Mohamed Jakkariya

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records relating to charge sheet in P.R.C.No.32 of 2014 against the petitioner which was split up from P.R.C.No.201 of 2010 on the file of the Judicial Magistrate, Tiruvarur and quash the same.

For Petitioner : Mr.A.Nileshram
for M/s.K.M.Vijayan Associates
For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]

ORDER



This Criminal Original Petition has been filed seeking to quash the proceedings in P.R.C.No.32 of 2014 on the file of the Judicial Magistrate, Tiruvarur.

2. Heard Mr.A.Nileshram, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for first respondent.

3. The case of the prosecution is that on 05.09.2010 at about 09.38 p.m., A3 is said to have stabbed one Ismail and caused serious injuries on his face. When this was questioned by the son of Ismail and others, there was a quarrel that took place in the Pallivasal. At that point of time, A1 is said to have shot the said Ismail with a gun. There are totally 29 accused persons in this case and the petitioner has been arrayed as A2.

4. On completion of investigation, the final report was filed by the respondent police and insofar as the petitioner (A2) is concerned, the charges were u/s.147, 148, 341, 307 and 302 r/w 109 and 302 r/w 149 IPC.

5. The case was split up insofar as the petitioner (A2) is concerned



and other accused persons faced trial in S.C.No.86 of 2016. During the pendency of the proceedings, A1, A16, A18 and A27 died and hence, the charges stood abated against them. Insofar as A13 is concerned, he was a juvenile and hence, the proceedings were conducted before the Juvenile Justice Board, Tiruvarur.

6. The trial Court, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to the conclusion that the prosecution has not proved the case beyond reasonable doubts and accordingly, by judgment dated 28.03.2016, all the accused persons were acquitted from all charges.

7. The charges against the petitioner is the same as the charges that were framed against A3. The Court below, on appreciation of evidence, came to the conclusion that the charges were not proved against A3. This finding rendered by the Court below should also enure in favour of the petitioner. There must be some purpose in making the petitioner undergo the trial before the Court below. If ultimately all the witnesses have turned

N.ANAND VENKATESH, J



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hostile and there are no materials to sustain the charges and on the very same materials, A3 had already been acquitted, no useful purpose will be served in making A2 undergo trial. In view of the same, this Court is inclined to exercise its jurisdiction under Section 482 Cr.P.C.

In the light of the above discussion, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.32 of 2014 on the file of the Judicial Magistrate, Tiruvarur, is quashed. Consequently, connected miscellaneous petition is closed.

08.08.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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To

1.The Judicial Magistrate,
Tiruvarur.

2.The Inspector of Police,
Kodavasal Police Station,
Thiruvarur.
Crime No.201 of 2010

3.The Public Prosecutor,
High Court, Madras.

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