



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.19503 of 2023
and Crl.M.P No.13155 of 2023

Mohammed Rashik
S/o.Thajudeen

..Petitioner/Accused A-15

vs.

1.The State represented by its,
Inspector of Police,
Muthupettai Police Station,
Muthupettai,
Tiruvarur District-614 714.

..1st Respondent/Complainant

2.R.Sankaralingam,
S/o.Ramakrishnan

..2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating in CC.No.104 of 2018 on the file of Judicial Magistrate, Thiruthuraipoondi and quash the petitioner's portion in respect of the same.

For Petitioner : Mr.G.Mohammed Aseef

For Respondents : Mr.A.Gopinath for R1
Government Advocate (Crl. Side)



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ORDER

This petition has been filed by A15 to quash the Proceedings pending in CC No.104 of 2018, on the file of Judicial Magistrate, Thiruthuraipoondi.

2. The case of the prosecution is that on 11.09.2008 at about 5.15 pm, a group of persons claiming themselves belonging to the Muslim community are said to have stopped the Vinayagar Chathurthi Procession. Thereafter, they are said to have pelted stones on the police and other public servants when they were asked to disperse from the place. A complaint was given in this regard by the second respondent and an FIR came to be registered in Crime No.442/2008 dated 11.09.2008 under section 147, 148, 341, 353, 332, 153(A), 295(A), 298, 198 read with 149 of IPC and 129 of Cr.P.C. On completion of investigation, a final report was filed before the Court below and the same was taken on file in CC.No.252 of 2009 as against 21 accused persons. The petitioner has been arrayed as A-15 in the final report.

3. The case was split up and A2, A3, A4, A6, A16, A17 and A20



under went trial in CC No.252 of 2009. For the other accused persons , it was split up and a new number was assigned as CC No.104 of 2018.

3. The trial Court which dealt with CC No.252 of 2009 with respect to the above said accused persons, on taking into consideration the facts and circumstances of the case and after appreciating the oral and documentary evidence, came to a conclusion that the prosecution did not prove the case beyond reasonable doubt and by judgment dated 24.12.2018, A2, A3, A4, A6, A16, A17 and A20 were acquitted from all charges.

4. The petitioner (A15) has approached this Court to quash the proceedings on the ground that the judgment that was passed in CC No.252 of 2009 will enure in favour of the petitioner also.

5. Heard Mr.G.Mohammed Aseef, learned counsel for the Petitioner, Mr.A.Gopinath, learned Government Advocate (Crl. Side) appearing on behalf of he respondent.

6. This Court went through the judgment passed by the learned Judicial Magistrate, Thiruthuraipoondi in CC No.252 of 2009. The learned Judicial magistrate, on appreciation of evidence came to a conclusion that



there is no clarity with regard to the identity of the accused persons and accordingly, the benefit of doubt was given in favour of the accused persons. On going through the final report, this Court finds that the case of the petitioner is akin to the over tact that was attributed against A14, A15 and A16. A16 had already undergone trial in CC No.252 of 2009 and he was acquitted from the charge. Therefore, whatever reasoning was given for A16 will also equally apply to the petitioner (A15) and the judgement passed in CC No.252 of 2009 dated 24.12.2018 will also enure in favour of the petitioner.

6. The learned counsel for the petitioner relied upon various judgments to substantiate his submission that the judgment passed in CC No.252 of 2009 would also enure in favour of the petitioner and this Court can always exercise its jurisdiction under Section 482 of Cr.PC. There is no quarrel with regard to the judgements that were cited by the learned counsel for the petitioner and those judgements will apply to the facts of the present case.

7. In the light of the above discussion, the continuation of the proceedings as against the petitioner/A15 will only result in an abuse of process of Court, which requires the interference of this Court in exercise of its jurisdiction under section 482 of Cr.PC.,. In view of the same, the proceedings in CC.No.104 of 2018 on the file of the Judicial Magistrate,



Thiruthuraipoondi is hereby quashed insofar as the petitioner (A15) is concerned.

8. This Criminal Original petition is accordingly allowed.

Consequently, the connected miscellaneous petition is closed.

01.09.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
pal/rka
To

1. Inspector of Police,
Muthupettai Police Station,
Muthupettai,
Tiruvarur District-614 714.

2. The Public Prosecutor,
High Court of Madras,
Madras.



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N. ANAND VENKATESH,. J.
pal/rka

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