



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/04/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.4780 of 2022
and
Cr1.MP(MD)No.3377 of 2022

Karuppiah : Petitioner/A3

Vs.

1.The Deputy Superintendent of Police,
Pudukkottai District,
Pudukkottai.

2.The Sub Inspector of Police,
Arimalam Police Station,
Pudukkottai district.
(Crime No.134 of 2002) : R1 and R2/Complainants

3.K.M.Palanisamy
4.Ganesan
5.Suresh
6.Senthil : R3 to R6/De-facto
Complainants

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in connection with Special SC No. 108 of 2019 on the file of the Sessions Judge, Special Court for SC/ST Act cases, Pudukkottai and quash the same in respect of the petitioner alone.



WEB COPY



2

For Petitioner : Mr.G.Mathavan
For R1 and R2 : Mr.S.Manikandan
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the proceedings in Special SC No.108 of 2019 on the file of the Sessions Judge, Special Court for SC/ST Act cases, Pudukottai.

2.The facts in brief:-

A case in Crime No.134 of 2002 was registered against the five persons including this petitioner. After completing the investigation, final report was filed against six persons. It was taken cognizance in Special CC No.141 of 2003 and it was tried by the I Additional District and Sessions Judge, PCR Court, Trichy. During the pendency of the trial process, this petitioner was absconding. So the case was split up against him as PRC No.25 of 2003 and later, it was committed to the Special Court and it was taken cognizance in Special SC No.108 of 2019. This is the factual background.



WEB COPY

3.Now the allegation is that the de-facto complainant and other persons belongs to Pallar SC community. A1 to A6 belongs to Kallar community. On 04/11/2002 at 05.30 pm, the de-facto complainant and other witnesses conducted sport events. At that time, the accused persons came there, created trouble and raised noise. They were also assaulted with weapons. When that was questioned by the public, A1 insulted them by calling their caste name and the other accused also joined and caused assault to the witnesses with wooden stick and knife, etc. So, they were charged for the offences punishable under sections 147, 148, 149, 294(b), 323, 324 IPC r/w 39 IPC and 3(1)(10) of SC/SC Act.

4.Before the trial court, except this petitioner, others faced the trial. On the side of the prosecution, 15 witnesses were examined and 9 documents marked. On the side of the accused, no oral or documentary evidence was adduced.

5.At the conclusion of the trial, the trial court acquitted the above said five persons on the ground that it is a case and counter case and the prosecution also





10. Para 20 of the trial court judgment is relevant, which reads as under:-

"20. A charge under Section 147 I.P.C as against the accused 1, 2, 3 and 5 and the absconding accused Karuppaiah and a charge under section 148 IPC as against the 4th accused has been framed. But none of the eye witnesses have deposed that all the accused came there with the common intention and committed rioting armed with deadly weapons. Further more, even though it is stated by the prosecution witnesses that the accused 1 to 5 and the absconding accused Karuppaiah came there armed with deadly weapons like, kambu, kattai, aruval, but none of the weapons have been seized and produced before the Court. There is no such mention in the observation mahazar under Ex.P2. Hence, the contention that the accused 1 to 5 and the absconding accused Karuppaiah came there with the



WEB COPY



6

common intention of committing rioting arms with deadly weapons and committed rioting cannot be accepted at all. Hence, I am of the view that the prosecution has failed to prove the guilt of the accused, 1, 2, 3 and 5 under Section 147 I.P.C and the guilt of the 4th accused under section 148 I.P.C."

11.The trial court on the basis of the evidence adduced by the prosecution found that the offences under sections 147 and 148 IPC are not proved beyond reasonable doubt.

12.On considering the above said factual aspect, the following finding has been recorded:-

"Hence, the contention that the accused 1 to 5 and the absconding accused Karuppaiah came there with the common intention of committing rioting arms with deadly weapons and committed rioting cannot be accepted at all. Hence, I am of



WEB COPY



7

the view that the prosecution has failed to prove the guilt of the accused, 1, 2, 3 and 5 under Section 147 I.P.C and the guilt of the 4th accused under section 148 I.P.C."

13. So with regard to the Special Act, after going through the records, it is found that the above said charge itself has not been proved.

14. With regard to the assault, after going through the medical evidence and real intention, the trial court recorded the finding in para 28 that the above said assault has not proved beyond all reasonable doubt against not only the above said accused, but this petitioner also. So finding that the accused in Crime Nos. 136 of 2022 and 137 of 2022 were registered against the prosecution witnesses and to escape from the above said prosecution only, the above said false complaint given against all the persons.



15. Reading of this finding of the trial court clearly shows that based upon the evidence, both oral and documentary, the above said judgment has been rendered, against which, no appeal has been preferred, either by the complainant or by the prosecution.

16. When there is a clear finding by the trial court to the effect that the charges were not proved not only against the persons facing the charges, but also against this petitioner, no useful purpose will be served by subjecting the petitioner, once again to undergo the trial process. The evidence, in both cases, are one and the same. There is no question of re-appreciation of the evidence in this matter. So, no new ground is also made by the prosecution against this petitioner and the prosecution is bound by the findings of the trial court. On that sole ground, this petition is liable to be allowed.

17. In the result, this criminal original petition is **allowed**. The proceedings in Special SC No.108 of 2019 on the file of the Sessions Judge, Special Court for SC/ST Act cases, Pudukottai is hereby quashed against



this petitioner. Consequently, connected Miscellaneous
Petition is closed.

06/04/2023

Index:Yes/No
Internet:Yes/No

er

To,

- 1.The Sessions Judge,
Special Court for SC/ST Act cases,
Pudukottai.
- 2.The Deputy Superintendent of Police,
Pudukkottai District,
Pudukkottai.
- 3.The Sub Inspector of Police,
Arimalam Police Station,
Pudukkottai district.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



10

G.ILANGOVAN, J

er

Cr1.OP(MD) No.4780 of 2022

06/04/2023