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Crl.O.P.(MD)No.9598 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.9598 of 2023

and

Crl.M.P(MD)Nos.7709 and 7710 of 2023

1.Abubacker

2.M.Noor Mohamed

... Petitioners/

Accused Rank A1 & A2

Vs.

1.The State represented by
The Inspector of Police,
Solavanthan Police Station,
Solavanthan,
Madurai District.
(Crime No.52/2008)

...Respondent/Complainant

2.Vellaichami

... Respondent No.2/
Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to final report in C.C.No. 511 of 2017, under Sections 147, 148, 447, 323, 336, 353, 324, 506 (ii) of IPC on the file of the learned Judicial Magistrate, Vadippatti and to quash the same as illegal as against these petitioners.



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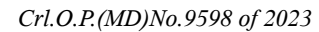
For Petitioner : Mr.S.A.S.Alaudeen
For R1 : Mr.S.Manikandan
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition is filed to call for the entire records pertaining to final report in C.C.No.511 of 2017, under Sections 147, 148, 447, 323, 336, 353, 324, 506 (ii) of IPC on the file of the learned Judicial Magistrate, Vadippatti and to quash the same as illegal as against these petitioners.

2.The case of the prosecution in brief:

Over the pathway to cremation ground, enmity exists between two religious groups. On 14.03.2008 one Mohammed Beevi died. The people, who belongs to the same religion of the deceased were tried to take the body of the deceased through prohibited area. At that time, the accused/petitioners made criminal intimidation to the defacto complainant and others, and caused injuries to various person, but however finally they buried the body. On the basis of the above said occurrence, the case was registered. After completion of the investigation, Final Report was filed, which was taken cognizance in C.C.No.511 of 2017. And seeking quashment of the same, this petition



3. Heard both sides.

On that basis only, the judgment of acquittal is rendered.



5. Since the parental case ended in acquittal, the prosecution has not come forward to examine some other witnesses in this matter. The trial Court has also disbelieved the oral evidence. Investigation was found faulted. Even the defacto complainant has also turned hostile. Even with regard to the manner of occurrence, the prosecution has failed to prove the case. On that ground, the oral evidence have been rejected.

6. Since the parent case ended in acquittal, because of the above said lapses, there will be no justification in subjecting this petitioners to trial. Which will amount to duplication of recording of evidence and judgment. In the considered view if may not be proper since in both the cases, the witnesses are one and the same and no new ground are going to be taken by the prosecution.

7. Hence, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

23.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Indu



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To

- 1.The Inspector of Police,
Solavanthan Police Station,
Solavanthan,
Madurai District.
- 2.The learned Judicial Magistrate,
Vadippatti.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

Indu

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