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Crl.O.P.(MD)No.15417 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.15417 of 2023

and

Crl.MP(MD)Nos.12239 and 12240 of 2023

R.Dinesh @ Dineshkumar : Petitioner/A4

Vs.

1.The Inspector of Police,
Theppakulam Police Station,
Madurai City.
(Crime No.1523 of 2011) : R1/Complainant

2.Sangilikaruppu : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in SC No.357 of 2023 on the file of the Additional Chief Judicial Magistrate, Madurai and quash the same as against the petitioner as illegal.

For Petitioner : Mr.D.Arunkumar

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal Side)

For 2nd Respondent : No appearance



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the case in SC No.357 of 2023 on the file of the Additional Chief Judicial Magistrate, Madurai.

2.The case of the prosecution in brief:-

On 17/12/2011 at about 10.30 pm, after closing his shop, when the de-facto complainant returning to his house, due to previous motive, all the accused persons came there and restrained him and attacked with knife and iron rod, thereby caused severe injuries. On the basis of the complaint given by the de-facto complainant, a case was registered in Crime No.1523 of 2011 for the offences under sections 147, 148, 341, 323, 324 and 307 of IPC. After completing the investigation, final report was filed and it was taken cognizance in PRC No.12 of 2012 by the Judicial Magistrate No.1, Madurai.

3.At the time of trial process, the case was split up against this petitioner/A4 from the parent case as SC No.357 of 2023 of the file of the Additional Chief Judicial Magistrate, Madurai. The parent case was tried in SC No.269 of 2018 on the very same court. On the side



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of the prosecution, 8 witnesses were examined, 11 documents were marked, apart from 4 material objects were marked. After completing the trial, the Chief Judicial Magistrate, Madurai, acquitted all the co-accused.

4.On that account, this petition is filed stating that the prosecution relied upon the very same witnesses or evidence as the case may be. No new or further investigation is stated. So far as this petitioner is concerned, the benefit that was given to the co-accused namely P.Chandran, D.Vinothkumar, P.Mohan and P.Kumar @ Jeyakumar may be extended to him, since splitting up the trial process will be futile exercise.

5.Heard both sides.

6.It is admitted by the learned Government Advocate (Criminal Side) that in respect of Crime No.1523 of 2011, five persons were arrayed as accused. On the side of the prosecution, 8 witnesses were examined and 11 documents were marked, apart from 4 material objects. At the conclusion of the trial, the trial court came to the conclusion that except PW6, PW7 and PW8, the Sub Inspector, who registered the FIR and the Investigating Officers, all other witnesses, those are examined as eye



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witnesses, confession witness all turned hostile. On that ground, the prosecution was not successful in establishing the case of assault in an appropriate manner. Acquittal was rendered.

7.Even without going into other aspects, the ground on which the acquittal was rendered by the trial court in the parent case, is sufficient enough to allow this petition. This is the only legal ground available to the petitioner.

9.On that sole ground, this criminal original petition is liable to be allowed.

10.In the result, this criminal original petition is **allowed**. The case in SC No.357 of 2023 on the file of the Additional Chief Judicial Magistrate, Madurai is hereby quashed against the petitioner/A4. Consequently connected Miscellaneous Petitions are closed.

08/12/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Additional Chief Judicial Magistrate,
Madurai.
- 2.The Judicial Magistrate No.1,
Madurai.
- 3.The Inspector of Police,
Theppakulam Police Station,
Madurai City.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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