



Crl.O.P.(MD)No.17098 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/10/2023

CORAM

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

Crl.OP(MD)No.17098 of 2023

and

Crl.MP(MD)Nos.13561 and 13562 of 2023

- 1.N.Vaikarai (a) Sekar
- 2.V.Mahendran
- 3.A.Devadas
- 4.S.Jebastian
- 5.K.Shanmugam
- 6.K.Mugil Eniyan (a) K.Ramalingam
- 7.A.Bhagath Singh
- 8.S.Venkatachalam
- 9.Bhaskar @ Viduthalai Sudar
- 10.Ravi @ Cheliyan
- 11.K.Veeramani
- 12.M.G.Devarasan
- 13.P.Balu
- 14.C.Arokiasamy
- 15.J.Chinnadurai (a) Arokiasamy
- 16.R.Nagarasan
- 17.T.Bala Dhandayuthapani
- 18.K.Kamaraj
- 19.G.Marimuthu
- 20.P.Subramaniyan
- 21.S.Senthil Maran
- 22.P.Durairaj
- 23.C.Sebastin
- 24.T.Poosaimani
- 25.T.Jothi Basu
- 26.P.Thiyagalingam
- 27.R.Raju
- 28.Mu.Thu.Kavithuvan @ Krishnamurthy
- 29.R.Elango
- 30.G.Ramasamy
- 31.A.Ananthan
- 32.P.Sankar @ Sankara Vadivel
- 33.R.Kannan
- 34.P.Suresh (a) Saravanan
- 35.G.Rajesh Kumar
- 36.S.Venkatesh Kumar
- 37.Senthil Kumar



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- 38.R.Prabhu (a) Prabhakaran
39.M.Murugavel
40.T.Subramani
41.Sugan
42.A.Kuberan @ Guruparan
43.V.Subramania Siva
44.K.Masilamani
45.S.Arul Amudhan
46.L.Poochandran
47.T.Manikandan
48.G.Ramesh
49.T.Selvam
50,K.Chinnathambi
51.Aadhi Kaliya Perumal
52.R.Karunanidhi
53.P.Chinnadurai @ Chinnaswamy
54.N.Karuppusamy
55.K.Subramanian
56.L.Kumariyanandam
57.P.Ravichandran
58.S.Ravichandran
59.P.Dachana Murthy
60.S.Aruldas
61.P.Ramanujam @ Ramalingam
62.T.Ravi
63.M.Muruganandham
64.K.Arasu (a) Boomirajan
65.D.Ramesh Kumar
66.B.Selvaraj
67.N.Sundaramoorthi
68.A.Muniyayya
69.P.Veerakumar
70.G.Jeevanandham
71.T.Sathish @ Rajendran
72.R.Gopinath
73.A.Manikandan
74.K.Radha
75.C.Prakash
76.G.Murugan
77.M.Ramakrishnan
78.V.Chithirai Selvan
79.P.Elaiyaraja
80.R.Damodharan
81.O.Selvam
82.P.Malar Mannan
83.R.Tamilagan

: Petitioners/Accused Persons

Vs.



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1.The State through,
The Inspector of Police,
Thanjavur East Police Station,
Thanjavur District.
(Crime No.86 of 2011) : R1/Complainant

2.D.Sachidhanandham,
The Sub Inspector of Police,
Thanjavur South Police Station,
Thanjavur District.
(Crime No.86 of 2011) : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records connected with the Final Report in PRC No.32 of 2017 on the file of the Judicial Magistrate-1, Thanjavur and to quash the same as illegal and pass such further or other orders.

For Petitioners : Mr.R.Alagumani

For Respondents : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the case in PRC No.32 of 2017 on the file of the Judicial Magistrate-1, Thanjavur.

2.The case of the prosecution in brief:-

On 09/03/2011 at about 11.00 am in front of the shop called 'Francis Alukas Jewellery', the accused persons numbering about 120 assembled unlawfully without proper permission, raised slogans against the the people belongs



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to Kerala State and demanding closure of the shop belongs to Kerala people. And they also caused damage to the advertisement banner worth about Rs.1,500/- put up in front of the shop. On the basis of the occurrence, a case in Crime No.86 of 2011 was registered for the offences punishable under sections 147, 143, 188 IPC and section 3(1) of the Tamil Nadu Property (Prevention of Damages and Loss) Act, 1992. After completing the investigation, final report was filed and it was taken cognizance in PRC No.16 of 2011 by the Judicial Magistrate No.1, Thanjavur against A1 to A6. The case against A7 to A120 was split up in PRC No.32 of 2017.

3. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that the parent case in SC No.202 of 2017 was tried by the II Additional District and Sessions Judge, Thanjavur and the judgment of acquittal was passed, on 31/10/2019; So far as these petitioners are concerned, the case has been split up in PRC No.32 of 2017; The parent case in SC No.202 of 2017 A1 to A6 similarly placed were tried; The benefit of acquittal that was rendered to A1 to A6 may also be extended to these petitioners.

4. Heard both sides.



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5.It is a case of rioting causing damage to the private property worth about Rs.1,500/-.

6.It is not denied that the above said protest/demonstration/rioting took place, on 09/03/2011 at about 11.00 am in front of a shop called 'Fancis Alukas Jewellery' situated near Old Bus Stand Thanjavur. These petitioners belongs to a particular political party. They were against the Kerala State people, since Kerala people conducting business activities in Tamil Nadu. The occurrence cannot be disputed by the petitioners. But at the same time, since, similarly placed accused has been acquitted, according to the petitioners, unless the prosecution come forward with the additional evidence to be let in this case, subjecting them to the committal process and trial may not be proper.

7.For that purpose, they would rely upon the judgment of the trial court namely II Additional District Judge, Thanjavur, passed in SC No.202 of 2017.

8.On the side of the prosecution, 11 witnesses were examined, 8 documents were marked, apart from 3 material objects. PW1, PW7, PW8, PW9 and PW10, who belongs to the



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Police Department gave evidence in favour of the prosecution. Now the question before the trial court is the identity of the accused, who participated in the occurrence. The evidentiary value of PW1, PW7, PW8, PW9 and PW10 were discussed in detail and the trial court found that no proper identification of the accused who participated in the occurrence, was established. The employees of the shop, even though cited as witnesses were not examined. Similarly, the private witnesses namely PW2 to PW6 did not support the case of the prosecution and turned hostile. They also failed to identify the accused persons, who participated in the occurrence. The other witnesses are only official witnesses. From them also, the prosecution has failed to establish the guilt of the accused. Even though, the occurrence could not be denied, as mentioned above, the identity of the persons was not properly brought on record.

9. Reading of the judgment may also be enured to the benefit of the petitioners. Even during the course of investigation, proper identity of the persons was not taken. When the prosecution proposed to examine the very same witness in this matter also, I find that no purpose is going to be served by subjecting the petitioners to the trial process once again.



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10.Now the law is well settled on that point, I need not extract the observation or decision in this regard. On that account, this criminal original petition is liable to be allowed.

11.In the result, this criminal original petition stands **allowed**. The impugned final report in PRC No.32 of 2017 on the file of the Judicial Magistrate No.1, Thanjavur, is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

18/10/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.1,
Thanjavur.
- 2.The Inspector of Police,
Thanjavur East Police Station,
Thanjavur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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