



CrI.OP.No.7225 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.7225 of 2024

and

CrI.M.P.Nos.5248 & 5249 of 2024

Mr.Mohamed Atlaf,
S/o.Rak Mohamed

... Petitioner

Vs.

1. State rep. by its,
The Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
(Cr.No.25 of 2010)

2. Mr.Chandrasekaran,
S/o.Muthukumarasami

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in P.R.C.No.48/2015 pending on the file of the Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.K.Nizamuddin

For Respondents : Mr.A.Gopinath
Government Advocate [CrI.side] [R1]



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ORDER

This petition has been filed seeking to quash the proceedings in P.R.C.No.48/2015 pending on the file of the Judicial Magistrate, Thiruthuraipoondi, Tiruvarur, on the ground of parity pursuant to the judgment made in S.C.No.168 of 2015 on the file of Principal District and Sessions Judge, Tiruvarur, dated 31.01.2018 wherein all the accused persons were acquitted from all the charges.

2. The first respondent registered a First Information Report in Crime No.25 of 2010 and on completion of investigation, a final report was filed before the learned Judicial Magistrate, Thiruthuraipoondi, in PRC No.38 of 2010. The final report was filed as against five accused persons. The petitioner was ranked as A3. The case was split up and insofar as the petitioner is concerned, PRC No.48 of 2015 was allotted. For the other accused persons, the case was committed to the file of Principal District and Sessions Judge, Tiruvarur and the same was taken on file in S.C.No.168 of 2015.



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3. The above accused persons underwent trial and the Sessions Court by judgment dated 31.01.2018 acquitted the other four accused persons from all charges. The relevant portion in the judgment are extracted hereunder:

"17. Case of the prosecution is that on 28.01.2010 at about 23.15 p.m., within the P.S. limit of Muthupettai, Muthupettai-Pattukottai Road, near A.M.Bungalow Bus stop, when the 1st Witness Chandrasekaran drove the TNSTC Bus bearing Regn. No.TN.49.N.1218 and stopped at the bus stop and alighted the passengers, all accused rushed towards the bus with dangerous weapons by shouting that "நம்ம ஆட்களை இந்து பசங்கள் அடிச்சிட்டானுங்க அதனால் இந்த பஸ்சை அடித்து உடைத்து நொறுக்குங்கடா" and A1 Ayub @ Ayubkhan had Iron rod (இரும்பு கம்பி), A2 to A5 were having wooden log, hit the front glass of the bus and caused damage to the tune of Rs.20,000/-. A1 Ayub @ Ayubkhan caused criminal intimidation.

18. Though the defacto complainant P.W.1 Tr.Chandrasekaran, P.W.2 Tr.Balasubramanian and P.W.3 Tr.Kumaresan are said to be ocular witnesses, they did not identify the accused. Of course, P.W.1 who is the driver of the Corporation Bus. He has deposed that some 2, 3 persons came and caused damaged to the front glass of the Corporation Bus and the damage caused to the tune of Rs.20,000/-. One more witness P.W.2 who is the Conductor of the Corporation Bus also not identified the accused. One of the ocular witness P.W.3 also has deposed that he did not know anything about the occurrence and he has not supported the prosecution case. Therefore, based on the evidence of P.W.1 to P.W.3, it is not safe to come to a conclusion that accused have committed the above said offence.

19. As mentioned supra, the ocular witnesses P.W.1 to P.W.3 have not specifically mentioned anything against the accused in their evidence. In these circumstances, based on the evidence of Investigation Officer, in the interest of justice, accused cannot be convicted. Therefore, it is held that charges



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levelled against the accused are not proved beyond reasonable Doubt.

In the result, the accused A1 is not found guilty u/ss.148, 506(ii) IPC and Sec.3(1) of TNPPDL Act 1992, A2, A4 and A5 are not found guilty u/ss.148 IPC and Sec.3(1) of TNPPDL Act 1992 and they are acquitted u/s.235(1) of Cr.P.C., Bail bonds executed by the accused shall stand cancelled."

4. The petitioner for whom the case was split up has approached this Court seeking for parity on the ground of acquittal of the other accused persons.

5. Heard Mr.K.Nizamuddin, learned counsel for petitioner and Mr.A.Gopinath, learned Government Advocate [CrI.side] appearing for first respondent.

6. In the considered view of this Court, the case of the petitioner is also similar to the case of the other accused persons. The reasons assigned by the trial Court for acquitting all the other accused persons will equally apply to the petitioner also. Therefore, there is no reason for the petitioner to undergo the ordeal of trial. This Court can exercise its jurisdiction under Section 482 Cr.P.C. and the judgment of acquittal passed in favour of the other accused persons can also be held to enure in favour of the petitioner.



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In the light of the above discussion, this Criminal Original Petition is allowed and the proceedings in P.R.C.No.48/2015 pending on the file of the Judicial Magistrate, Thiruthuraipoondi, Tiruvarur, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

27.03.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

1.The Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
(Cr.No.25 of 2010)

2.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J.

gm

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