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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

**CRL.OP.Nos.13720 & 15442 of 2024
and
CRL.MP.Nos.8344 & 8346 of 2024
9447 & 9449 of 2024**

- 1.Dasarathan
- 2.Guna
- 3.Jeysankar
- 4.Sathish
- 5.Karthikeyan
- 6.Lakshmanakumar
- 7.Vivek
- 8.Prakash
- 9.Deepanraj
- 10.Vasudevan
- 11.Parthiban
12. Kathirvel

... Petitioners/Accused
in both the cases

Vs

- 1.The Inspector of Police
B-2, R.S.Puram Police Station,
Coimbatore City,
Coimbatore.

- 2.K.Saravanan

... Respondents
in both the cases

Vs

Prayer in Crl.OP.No.13720 of 2024: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records



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pertaining to the charge sheet pending on the file of the judicial Magistrate No.1, Coimbatore in CC.No.2485 of 2023 filed by the respondent herein and quash the same.

Prayer in Crl.OP.No.15442 of 2024: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet pending on the file of the Judicial Magistrate No.1, Coimbatore in C.C.No.2486 of 2023 and quash the same.

For Petitioners : Mr.G.Karthikeyan
in both the cases Senior Counsel

For Respondents : Mr.S.Udaya Kumar for R1
in both the cases Government Advocate (Crl.Side)

COMMON ORDER

Petitions are filed to quash the CC.Nos.2485 and 2486 of 2023 on the file of the Judicial Magistrate No.1, Coimbatore.

2. The prosecution in both the cases is one and the same.

3. On 14.02.2014, at about 3.00 p.m., 12 members of Hindu Munnani had taken out the procession commemorating the bomb blast incident occurred 16 years ago which has taken the life of 64 persons and disabled more than 200 persons. CC.No.134 of 2014 registered by B-2



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R.S.Puram Police for offence under Sections 143 and 505 (i) (c) of IPC in Cr.No.135 of 2014 registered by the very same police station for offence under Sections 143, 188 and 505 (i) (c) of IPC.

4. The substance of the complaint is that they all congregated together for pushpanjali and distributed pamphlets insighting hatred among community and they raised slogans prompting enmity. In Cr.No.135 of 2014, it is also contended that they have disobeyed the order of promulgation attracting offence under Section 188.

5. Learned Senior Counsel appearing for the petitioner submitted that CC.No.2485 of 2022 which is the out come of Cr.No.134 of 2014 and CC.No.2486 of 2014 arising out of the Cr.No.135 of 2014 has no legs to stand since there is no evidence to show that the pamphlets carrying the material to prompt ill-will among the community. The peaceful congregation of 12 persons to commemorate the death of innocent persons in the bomb blast been projected as if they have assembled unlawfully and disobeyed promulgation by taking out procession.

6. Further leaned Senior Counsel also submitted that the case is



registered on 14.02.2014 and final report filed soon thereafter taken cognizance by the court only in the year 2023. Nearly 9 years thereafter and from 2023 till date, no progress in the trial. The inordinate delay in the proceedings against the petitioner has accrued ripe to the accused persons to get discharge from the acquisition.

7. Learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the pamphlets circulated by the petitioners herein is available in the CD file and if it is not produced along with final report, same may be produced before the trial court before commencement of trial and for that purpose, the case cannot be quashed. Further more, learned Government Advocate (Crl.Side) appearing for the first respondent also submitted that the delay in taking the final report on file for the cognizance of the offence cannot be a ground to quash the case of this nature which has been committed with an intention to cause hatred among the community.

8. This court is conscious of the fact that only in rarest case, power under Section 482 of Cr.P.C., has to be exercised when there is a grave case of mis-carriage of justice and such mis-carriage has apparently



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found on the record. In this case, this court finds that there is an element of miscarriage of justice by inordinate delay in commencement of the trial. The right of speedy trial is part of Article 21 of the Constitution of India. If the delay is attributable to the accused, he cannot take advantage of his own fault. At the same time, if the prosecution does not care to proceed with the trial, then the accused cannot be expected to live with sword on his hope perpetually while considering the case on hand, the allegation made in the FIR as well as in the final report is on assumption that 12 persons of a particular community, if they join and pay homage for the departed soul who lost their lives in a terrorist attack will cause hatred among the other community. This presumption is not supported by any material evidence either at the time of procession or soon after the procession. Therefore, foundational fact of the prosecution case itself suffers infirmity. That apart, having filing complaint and final report in the year 2014, no explanation for not pursuing the matter for more than 10 years. The delay in commencing the trial, if it is attributable to the prosecution, then court has to necessarily interfere to protect the right of the citizen who is guaranteed with the legitimate expectation of speedy trial. In this



DR.G.JAYACHANDRAN.,J.

gv

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case, the inordinate delay and lack of foundational material to proceed against the accused persons renders them the benefit of interference under Section 482 of Cr.P.C., to prevent the abuse of law. Accordingly, this petition is allowed and C.C.Nos.2485 and 2486 of 2023 stands quashed. Consequently, connected miscellaneous petitions are closed.

02.08.2024

Index: Yes/No

Speaking / Non-speaking Order

gv

To

1. The Judicial Magistrate No.1,
Coimbatore
2. The Public Prosecutor,
High Court of Madras,
Chennai.

**CRL.OP.Nos.13720 & 15442 of 2024
and
CRL.MP.Nos.8344 & 8346 of 2024
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