



Crl.O.P.No.20724 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:10.09.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.20724 of 2024

and

Crl.M.P.No.11905 of 2024

Elayaraja

.. Petitioner/Accused-15

/versus/

1.State by The Inspector of Police,  
Sendural Police Station,  
Ariyalur District.  
(Cr.No.3 of 2020)

..1<sup>st</sup> Respondent/Complainant

2.Mr.Saravanan

..2<sup>nd</sup> Respondent/Defacto  
Complainant

Criminal Original Petition has been filed under Section 528 of BNSS to call for the records in S.C.No.25 of 2024 on the file of Additional Sub Court, Ariyalur and quash the same.

For Petitioner

:Mr.P.Pugalenthi

For R1

:Mr.S.Udaya Kumar,  
Govt.Advocate (Crl.Side)



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### ORDER

In the course of counting vote during the local body election, a fight between two groups had erupted. One Sareswathi was declared as elected. The members of the opposite party had indulged in roadroko and protested against the declaration of result in favour of Sareswathi by the Election Officer. In the course of roadroko, it is alleged that the members of the unlawful assembly had restrained the public and used abusive language. Four of them poured kerosene on the police team and two of them tried to set fire on them and others aided and abetted them to do the said criminal act. Thus, First Information Report was registered in Crime No. 3 of 2020 and on completion of investigation, final report filed in P.R.C.No.10 of 2020 against 30 persons before the District Munsif cum Judicial Magistrate Court, Sendurai, Ariyalur District and the same was taken cognizance by the Assistant Sessions Judge(FAC), Ariyalur in S.C.No.44 of 2021. This petitioner was absconding and case against him got spilt up. Whereas out of 30 accused, 19 of them filed quash petition in Crl.No.1062 of 2021 and the same was allowed by this Court on 16.02.2021. In respect of the remaining accused, except this petitioner



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against whom the case was spilt up, in S.C.No.44 of 2021 was detained.

After trial, the Additional Sessions Court acquitted all the accused vide judgment dated 30.3.2023 extending the benefit of doubt. In the said circumstances, this petitioner was in Abroad, all along, returned to India and surrendered before the Magistrate and got warrant recalled and secured himself for trial. The Sessions Court has taken cognizance against this petitioner in S.C.No.25 of 2024. Till date, the charge was not framed.

2. The learned Government Advocate (Crl.Side) submitted that based on the evidence let in by the prosecution, all the other accused who faced trial been acquitted and in respect of 19 accused, case against them even before the trial, quashed by the order of this Court. Therefore, as against the sole accused against whom there is no overt act attributed in the final report, there cannot be any charge to be framed and tried.

3. The learned counsel appearing for the petitioner submitted that the final report was filed in the year 2020 against 30 persons for the



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offence under Sections 147, 341, 294(b), 353, 307 r/w 109 of IPC.

However, after quashing the case as against 19 accused, out of 30 accused, acquittal of 10 accused after full trial, the sole remaining accused, who is the petitioner herein can neither be charged for the offences under Sections 147 or 109 of IPC nor Sections 341, 294(b), 353 and 307 of IPC, since there is no material either in the 161 statements recorded by the police or in the deposition of the witnesses, which were recorded in the main case in S.C.No.44 of 2021.

4. The learned Government Advocate (Crl.Side) submitted that as per the statements of the witnesses, this petitioner along with others had aided A2, A3, A4 and A18 and form part of the unlawful assembly.

5. As pointed out by the learned counsel appearing for the petitioner, while the case against all other accused, either quashed or ended in acquittal nothing survives to prosecute this petitioner, when the previous statement of the witnesses nor the subsequent deposition in the main case does not implicate the petitioner for any of the overtact, even



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his presence along with others on the date of occurrence itself is being highly doubtful and it will be futile exercise to continue the trial against this petitioner in S.C.No.25 of 2024 (spilt up from S.C.No.44 of 2021).

6. In the said circumstances, this Criminal Original Petition to quash is allowed. The case in S.C.No.25 of 2024 against the petitioner is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

10.09.2024

Index:yes/no  
Neutral citation:yes/no  
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To:

- 1.Additional Sub Court, Ariyalur.
- 2.The Inspector of Police, Sendural Police Station, Ariyalur District.
- 3.The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

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