



Crl.O.P.(MD)No.1682 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.01.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.1682 of 2022

and

Crl.M.P.(MD).Nos.1222 and 1223 of 2022

Yovan @ Yacob

... Petitioner

Vs.

1.The State rep. through
The Inspector of Police,
Mudhukulathur Police Station,
Ramanathapuram District.

2.Sekar

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the impugned charge sheet in S.C.No.123 of 2018 on the file of the learned Principal District Judge, Ramanathapuram and quash the same, insofar as the petitioner is concerned.

For petitioner

: Mr.M.S.Jeyakarthik

For R-1

: Mr.S.S.Madhavan
Government Advocate (Crl.side)

For R-2

: No appearance



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.C.No.123 of 2018 on the file of the learned Principal District Judge, Ramanathapuram.

2. The case of the prosecution is that the defacto complainant casted his vote in favour of one political party, due to which, the accused persons behaved enmity against the defacto complainant. On 04.08.2001, the accused persons came to the house of the defacto complainant and attacked him and his relatives by using deadly weapons and thereby, caused severe injuries to the defacto complainant. Hence, the complaint.

3. The learned counsel appearing for the petitioner submits that in this case, there are 12 accused persons, in which, the petitioner is arrayed as A12 and after completion of investigation, the first respondent Police has filed a charge sheet and the same was taken on file in S.C.No.95 of 2004 by the learned Principal District Judge, Ramanathapuram for the offence punishable under Sections 147, 148, 452, 323, 324, 326 and 307 IPC r/w. Section 3 of TNPPDL Act. Since the petitioner has not appeared before the trial Court, the case was split up



and S.C.No.123 of 2018 was assigned. The trial was conducted in respect of the seven accused persons and after full-fledged trial, the trial Court acquitted seven accused persons, vide judgment, dated 10.01.2008 in S.C.No.95 of 2004, since the prosecution did not prove the charges beyond reasonable doubt. He would further submit that the petitioner has nothing to do with the alleged offence committed by the other accused persons and the allegations are levelled only against the other accused persons and as against them, the prosecution did not prove their case and they have been acquitted. He would further submit that in respect of A4 also, the trial Court has split up the case and assigned S.C.No.123 of 2018 and the accused No.4 has filed a petition in Crl.O.P(MD).No.17973 of 2019, before this Court for quashing of S.C.No.123 of 2018 and this Court has allowed the petition quashing the proceedings in S.C.No.123 of 2018, vide order dated 29.11.2019. Hence, he prays for quashing of the proceedings in S.C.No.123 of 2018 on the file of the learned Principal District Court, Ramanathapuram, insofar as the petitioner is concerned. .

4. The learned Government Advocate (Criminal side) appearing for the first respondent Police would submit that because of absence of the petitioner, the trial Court issued Non-Bailable Warrant against the



petitioner and the case was split up in respect of the petitioner and S.C.No.123 of 2018 was assigned. Unless the petitioner faces the trial, he cannot plead with regard to the acquittal ended in favour of the other accused persons. Hence, he prays for dismissal of this petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

6. Admittedly, the petitioner is arrayed as A12 in Crime No.90 of 2001 on the file of the first respondent Police and after conducting investigation, the first respondent Police has filed the charge sheet before the trial Court and the trial Court has taken cognizance in S.C.No.95 of 2004 and conducted trial as against the seven accused persons and acquitted them, vide judgment dated 10.01.2009. Since the petitioner has not appeared before the trial Court, the trial Court has split up the case in respect of the petitioner and S.C.No.123 of 2018 was assigned. The accused No.4, who was issued Non-bailable warrant for non-appearance, has also filed a petition in Crl.O.P.(MD).No.17973 of 2019 before this Court for quashing of S.C.No.123 of 2018 and after elaborate discussion, this Court, vide order dated 29.11.2019, quashed the proceedings in S.C.No.123 of 2019,



insofar as the accused No.4 is concerned and the relevant paragraphs are extracted hereunder:

“10.Further, this Court and various High Courts repeatedly held that the acquittal of the other co-accused, after considering the depositions and holding their evidence to be unreliable, the trial Court cannot re-assess their depositions once again and take a contrary view. Therefore, this Court is of the considered view that the above settled proposition of law laid down in the above decision is squarely applicable to the case on hand.

11.In the present case, except the petitioner, seven accused have been tried the charges and acquitted in S.C.No.95 of 2004 by the trial Court by the judgment dated 10.01.2009 and A4 has been tried the charges and acquitted in S.C.No.177 of 2008 by the trial Court by the judgment dated 26.11.2018 disbelieving the case of the prosecution and holding that the prosecution has failed to prove the charges beyond reasonable doubt. The petitioner is being A4 is also standing in the same footing like the other accused persons. Under these circumstances, no useful purpose would be served to make the petitioners to undergo the ordeal of the trial.

12.In view of the above discussion, this criminal original petition is allowed and the proceedings in S.C.No.123 of 2018 on the file of the learned Additional District Court(FTC), Paramakudi, is quashed as against the petitioner is concerned. Consequently, connected miscellaneous petitions are closed.”



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7. When the co-accused persons have been acquitted from the charges by the trial Court disbelieving the case of the prosecution, no useful purpose would be served to make the petitioner to face the trial. Hence, in view of the decision rendered by this Court in respect of the co-accused in Crl.O.P(MD).No.17973 of 2019, this Court is inclined to quash the proceedings in S.C.No.123 of 2018 on the file of the learned Principal District Judge, Ramanathapuram insofar as the petitioner is concerned and accordingly, it is quashed. Hence, this Criminal Original Petition is allowed. Connected miscellaneous petitions are closed.

23.01.2024

Index : Yes/No
Internet : Yes/No
ssb

To

- 1.The learned Principal District Judge, Ramanathapuram
- 2.The Inspector of Police,
Mudhukulathur Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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