



Crl.O.P.(MD)No.5793 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD) No.5793 of 2024
and
Crl.MP(MD) Nos.4399 and 4400 of 2024

M.R.Thenkovan @ Shanmugam

... Petitioner / 4th Accused

Vs

1.The Inspector of Police,
Devakottai,
Taluk Police Station,
Sivagangai District.
Crime No.116 of 2013

... 1st Respondent / Complainant

2.N.Prabhu

... 2nd Respondent / Defacto complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the impugned charge sheet in P.R.C.No.24 of 2017, on the file of the Judicial Magistrate Court, Devakottai, Sivagangai District and quash the same insofar as the petitioner is concerned.

For Petitioner
For R1

: Mr.S.Ramsundaravijayaraj
: Mr.M.Sakthi Kumar
Government Advocate(Crl.side)



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ORDER

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This Criminal Original Petition is filed to quash the proceedings in P.R.C.No.24 of 2017, on the file of the Judicial Magistrate Court, Devakottai, Sivagangai District, insofar as the petitioner is concerned.

2.The case of the prosecution is that due to previous enmity, the petitioner along with other accused murdered one Padaivendran. Therefore, a case in Crime No.116 of 2013 has been registered as against the accused persons for the offence under Sections 302 r/w 34(b), 120(b) and 107 of IPC. The petitioner is arrayed as fourth accused. The case was committed to District and Sessions Court, Devakottai in S.C.No.19 of 2018.

3.The learned Counsel for the petitioner submits that in the above case, after full-fledged trial, 14 accused persons have been acquitted as the prosecution has not proved the charges as against those accused persons. Insofar as the petitioner is concerned, the case was split up in PRC No.24 of 2017 and the same is pending before the Judicial Magistrate Court, Devakottai. The petitioner has filed this quash application on the ground that the trial has been proceeded as against the co-accused and ended in acquittal and therefore, there is no purpose in proceeding further as against this petitioner.



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4.Mr.M.Sakthi Kumar, learned Government Advocate(Crl.side) takes notice for the respondent and strongly opposes to quash the proceedings in P.R.C.No.24 of 2017 pending on the file of the Judicial Magistrate Court, Devakottai, Sivagangai District. Since the petitioner has evaded trial, the case has been split up as against the petitioner and it is still pending in P.R.C.No.24 of 2017.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the first respondent.

6.The occurrence is of the year 2013 and the case has been registered for the offence under Sections 302 r/w 34(b), 120(b) and 107 of IPC. The final report has been filed in the year 2014. The petitioner, who was arrayed as the fourth accused has evaded trial for the past ten years and now taking advantage of the order of acquittal given by the trial Court in favour of the co-accused has moved this application. The benefit of doubt which has been extended to the co-accused cannot be a ground to quash the proceedings pending as against this petitioner.

7.Considering the conduct of the petitioner in evading the trial for the past ten years and the manner in which, this petition has been moved on the ground that the co-accused have been acquitted by the trial Court, this Court is not inclined to quash the proceedings in P.R.C.No.24 of 2017 pending on the file of the Judicial Magistrate Court, Devakottai, Sivagangai District.



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8. Accordingly, this Criminal Original Petition is dismissed with a direction to the trial Court to proceed with the trial as against the petitioner and to conclude the same as expeditiously as possible. The respondent police is directed to secure the petitioner. Consequently, connected miscellaneous petitions are closed.

Sd/-

24.04.2024

This Petition having been posted on Thursday, the Thirteenth day of June Two Thousand Twenty Four "For Being Mention" In pursuance to the order of this court dated 24.04.2024 and made herein in the presence of the above said Advocates, this court made the following order.

Today, the matter was listed under the caption for 'being mentioned'.

2. The learned counsel for the petitioner submits that in the original order, dated 24.04.2024, this Court has directed the respondent police to secure the petitioner/A1 herein. However, non-bailable warrant is pending only against the second accused and not against the petitioner herein.

3. Recording the same, the respondent is directed to secure the second accused in Crime No.116 of 2013, on the file of the respondent police.



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4.Registry is directed to rectify the mistake in the original order and issue a fresh order copy.

Sd/-

Assistant Registrar(CS II)

**(*)Corrected as per the order of this court dated
13.06.2024 made in CRL OP(MD)No.5793 of
2024.**

Sd/-

Assistant Registrar(CS III)

// True Copy //

/07/2024

Sub Assistant Registrar()

vrn

To

To be substituted to the order which is already despatched on 11.06.2024

1.The Judicial Magistrate,
Devakottai, Sivagangai District.

2.The Inspector of Police,
Devakottai,
Taluk Police Station, Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.RAMSUNDAR VIJAY RAJ, Advocate (SR-22496[F] dated
25/04/2024)

<https://www.mhc.tn.gov.in/judis>



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Crl.MP(MD) Nos.4399 and 4400 of 2024
23.04.2024

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Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023