



Crl.O.P.(MD)No.12922 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.12922 of 2022
and
Crl.M.P.(MD)No.8202 of 2022

Karthikeyan @ Aiyya Pillai

... Petitioner

Vs.

1.State rep.by
The Inspector of Police,
Madukkur Police Station,
Thanjavur District.
(Cr.No.37 of 1994)

2.N.Swaminatha
Sub-Inspector of Police,
Madukkur Police Station,
Thanjavur District.

... Respondents

(R2 is suo motu impleaded as per order dated 19.07.2022 in Crl.O.P.
(MD)No.12922 of 2022)

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in PRC.No.11 of 2004 on the file of the Judicial Magistrate, Pattukkottai, Thanjavur District and to quash the same.



Crl.O.P.(MD)No.12922 of 2022

For Petitioner : Mr.B.Kumar,
Senior Counsel
for M/S.Sivakumar.S.

For R1 : Mr.S.Manikandan,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in PRC.No.11 of 2004 on the file of the Judicial Magistrate, Pattukkottai, Thanjavur District.

2.The case of the prosecution is that when the police officials attached to the first respondent Police Station searched for the accused persons in Cr.No.32 of 1994, the accused persons and some other persons stopped them and started attacking them with deadly weapons. Therefore, a case in Cr.No.37 of 1994 has been registered. Upon completion of investigation, the first respondent Police filed final report in PRC.No.11 of 2004 before the learned Judicial Magistrate, Pattukkottai, Thanjavur District for the offence punishable under Sections 147, 148, 332, 307 IPC. Since the petitioner herein absent during trial, the case was split up in respect of other accused persons and



trial was conducted in S.C.No.137 of 2004 before the Additional Sessions Court, Pattukottai, Thanjavur and the same was ended in acquittal. However, the case against the petitioner in PRC.No.11 of 2004 is still pending and hence, the petitioner filed the present petition to quash the same.

3.The learned Senior Counsel appearing for the petitioner submits that the alleged occurrence was happened in the year 1994 and due to employment in Dubai, the petitioner herein left India and therefore, he was unable to appear before trial Court. Hence, after committal proceedings, the case against A1 to A3 was split up in S.C.No.137 of 2004 and the same was ended in acquittal. He further submits that the allegations made as against A1 to A3 were elaborately considered by the trial Court and after considering available materials and prosecution witnesses, the trial Court acquitted A1 to A3. As far as the petitioner herein is concerned, the very same set of allegations levelled in the complaint. When already the prosecution case was disproved by other accused persons, forcing the petitioner to face the trial is not sustainable one. Therefore, the case against the petitioner also has to be quashed.



Crl.O.P.(MD)No.12922 of 2022

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4.The learned Government Advocate(Crl.side) appearing for the first respondent Police submits that the petitioner and other accused persons assaulted the Police officials. However, he fairly admits that insofar as A1 to A3, the case was ended in acquittal.

5.Heard the learned counsel on either side and perused the materials available in the records.

6.A perusal of records reveals that a case was registered as against the petitioner and other accused persons alleging that they had assaulted the Police officials. Since the petitioner did not appear before the trial Court, the case was committed to the Sessions Court, in respect of A1 to A4 alone in S.C.No.137 of 2004. After conclusion of trial, the case in S.C.No.137 of 2004 was ended in acquittal. However, the case against the petitioner in PRC.No.11 of 2004 is still pending.

7.The learned Senior Counsel for the petitioner placed reliance on a decision of this Court in Tamilmaran Vs. State 2007(1)LW(Crl.)514, to



the proposition that in the event of acquittal of the other accused disbelieving the entire prosecution case, no useful purpose would be served for putting the petitioner to undergo the ordeal trial. In that decision this Court placed reliance on a decision of Delhi High Court in Sunil Kumar Vs. State, 2000 (1) Crimes 73, wherein it is held as follows:-

3.The question thus is as to whether in face of the judgment of acquittal the petitioner should still be permitted to undergo the ordeal of a trial. In Sat Kumar Vs State of Haryana, AIR 1974 SC 294, it was held that here is no rule of law that if the Court acquits some of the accused on the evidence of a witness raising doubt with regard to them the other accused against whom there is absolute certainty about his complicity in the crime based on the remaining credible part of the evidence of that witness must be acquitted. (See also Har Prasad V. State of Madhya Pradesh AIR 1971 SC 1450; Makan Jivan Vs. State of Gujarat, AIR 1971 SC 1791; Mohd.Moin Uddin Vs. State of Maharashtra, 1971 SCC (Cri) 617). But where the evidence against all the accused persons is inseparable and indivisible and if some of the accused persons have been acquitted, the remaining accused persons cannot be treated differently on the basis of the same evidence.



Crl.O.P.(MD)No.12922 of 2022

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8.The aforesaid decision is squarely applicable to the instant case also. The allegations levelled as against the petitioner along with A1 to A3 were tried by the trial Court and ended in acquittal and thereby, no useful purpose will be served by putting the petitioner to undergo the ordeal trial. Therefore, this Court has no hesitation to quash the impugned proceedings. Accordingly, the impugned proceedings in PRC.No.11 of 2004 pending on the file of the Judicial Magistrate, Pattukkottai, Thanjavur District is hereby quashed and this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

12.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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CrI.O.P.(MD)No.12922 of 2022

To

- 1.The Judicial Magistrate,
Pattukkottai,
Thanjavur District.
2. The Inspector of Police,
Madukkur Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.12922 of 2022

M.DHANDAPANI,J.

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CrI.O.P.(MD)No.12922 of 2022

12.03.2024