



Crl.O.P.(MD)No.14624 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.14624 of 2024

and

Crl.M.P.(MD)Nos.9121 and 9124 of 2024

Sheik Dawood

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
(Crime No.305 of 2000)

Senthilkumar (died)

2.Muniyandi

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 B.N.S.S, to call for the records in S.C.No.177 of 2019 on the file of the 3rd Additional District and Sessions Judge, Pattukkottai, Thanjavur District and quash the same in so far as the petitioner/7th accused concern.

For Petitioner : Mr.S.Sathyachidambaram

For R1 : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition has been filed, invoking Section 528 B.N.S.S., seeking orders to quash the charge sheet in S.C.No.177 of 2019 pending on the file of the Additional District and Sessions Court, Pattukkottai, Thanjavur District.

2. The case of the prosecution is that on 05.07.2000, the fourth accused, in order to murder one Senthilkumar/defacto complainant, with conspiracy with other accused brought the said Senthilkumar to CMP line Pallivasal and at that time, the petitioner/seventh accused and the other accused had attacked him with wooden log and damaged his auto and thereafter the said Senthilkumar was admitted in the hospital by his friends and on the very next day on 06.07.2000, he died.

3. On the basis of the complaint lodged by the deceased Senthilkumar, FIR came to be registered in Crime No.305 of 2000 for the alleged offences under Sections 147, 341, 427, 323 and 506(1) IPC against six unknown persons and after completing the investigation, the first respondent has filed the charge sheet against 10 persons including the petitioner and the case was taken on file in P.R.C.No.58 of 2003



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and the same was split up against the petitioner and the third accused in P.R.C.No.17 of 2005 and the same was again split up as against the third accused and after committal, the cases were taken on file in S.C.No.177 of 2019 against the petitioner and S.C.No.154 of 2005 against the accused 1, 2, 4, 5, 6 and 8 to 9.

4. It is not in dispute that the trial in S.C.No.154 of 2005 was proceeded against 8 accused and after full-trial, the learned Sessions Judge has passed a judgment dated 28.12.2006 acquitting all the 8 accused.

5. The learned counsel appearing for the petitioner would submit that the petitioner at the time of committal, was in abroad and since he has not turned up, warrant came to be issued and that the petitioner has returned in 2019 and at the instance of the petitioner, warrant came to be recalled and the petitioner has been appearing before the concerned Court regularly.

6. It is not in dispute that the petitioner is facing the split case in



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S.C.No.177 of 2019 on the file of the III Additional District and Sessions Court, Pattukkottai, Thanjavur District. It is also not in dispute that the case as against the third accused ordered to be split up in P.R.C.No.17 of 2005 is pending.

7. The Hon'ble Supreme Court in the case of ***State of Haryana and others Vs. Bhajan Lal and others*** reported in ***1992 SCC (Cri) 426*** has enumerated 7 categories of cases, where the power can be exercised under Section 482 of Code of Criminal Procedure and the same are extracted hereunder:-

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and



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inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of



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the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

8. In ***Dr.Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra and others*** reported in **2019 (18) SCC 191**, the Hon'ble Apex Court has specifically held that exercise of powers under Section



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482 Cr.P.C. to quash the proceedings is an exception and not a rule. It is settled law that the inherent jurisdiction under Section 482 Cr.P.C. is wide but at the same time, the same is to be exercised sparingly, carefully and with caution and only when such exercise is justified by the tests specifically laid down in the Section itself.

9. The Hon'ble Supreme Court in ***Kaptan Singh Vs. The State of Uttar Pradesh and others*** reported in ***2021 (3) Crimes 247*** has stated that, that Court in catena of decisions has observed that the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial and that question is required to be examined keeping in view, the contents of FIR and *prima facie* materials, if any, requiring no proof and at such stage, the High Court cannot appreciate evidence nor can it draw its own inferences from contents of FIR and materials relied on.

10. The learned counsel appearing for the petitioner would mainly contend that since the trial Court has acquitted all the other 8 accused as



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the prosecution has failed to prove the case, the said benefit can also be given to the petitioner.

11. But as rightly pointed out by the learned Government Advocate (Criminal Side), the petitioner was in abroad at the time of committal and he has not taken part in the proceedings. Moreover, the learned Sessions Judge, after considering the available materials, has given a finding that the prosecution has failed to prove the offences as against the accused who faced the trial at that time. Just because the other accused came to be acquitted, that by itself is not a ground to quash the charge sheet pending against the petitioner.

12. Except the above, the petitioner has not canvassed any other reasons or ground to quash the charge sheet. Hence, this Court concludes that the petition is devoid of merit and the same is liable to be dismissed.

13. In the result, this Criminal Original Petition stands dismissed. Since the case is pending from 2019 onwards, the learned III Additional District and Sessions Judge, Pattukkottai, Thanjavur District is directed



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to complete the trial in S.C.No.177 of 2019 and dispose of the same within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

04.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm

To

- 1.The III Additional District and Sessions Judge,
Pattukkottai, Thanjavur District.
- 2.The Inspector of Police,
Adirampattinam Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Order made in
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and
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Dated: 04.09.2024