



WEB COPY



Crl.R.C.No.2411 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2411 of 2024

and

Crl.M.P.No.18527 of 2024

Shajahan @ Raja

... Petitioner/A11

Vs.

The State represented by
The Inspector of Police,
S.I.D., CB-CID,
Coimbatore
In (B4 Race Course Police Station),
Coimbatore District.
Crime No.1906 of 1997

... Respondent

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to set aside the order dated 26.09.2024 passed in C.M.P.No.325 of 2024 in S.C.No.146 of 2023 by the Sessions Court for trial of Bomb Blast Cases, Coimbatore District, allow this revision.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



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ORDER

The revision challenges the dismissal of the discharge petition filed by the petitioner, who is facing trial for the alleged offences under Sections 120(B) and 307 of the I.P.C. r/w Section 4(a) and 6 of the Explosive Substances Act, 1908.

2.The case of the prosecution is that in between the 3rd week of August, 1997 and 1st December, 1997, the petitioner, along with other accused, met at various places in Tamil Nadu and Mysore and agreed to procure and supply explosives to manufacture bombs and to use them against the Hindus and their properties in retaliation for the death of 18 Muslims on 30.11.1997 and 01.12.1997 during the communal rites at Coimbatore.

3.The petitioner was arrayed as A11 in the final report. Since the petitioner was absconding, the trial against the petitioner was split up and the case against the petitioner was assigned S.C.No.146 of 2023. The co-accused



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were tried in S.C.No.1 of 2007. The remaining accused were acquitted by the trial Court and one of the accused was declared as a proclaimed offender.

4.The petitioner sought for discharge on the ground that the evidence against the petitioner is the same as the evidence that was adduced against the co-accused and therefore, no useful purpose would be served by directing the petitioner to undergo the ordeal of trial, especially considering the fact that the judgment of acquittal was also confirmed by this Court in Crl.A.No.256 of 2010. The learned counsel further submitted that a Special Leave Petition was filed against the said judgment and the same was also dismissed by the Hon'ble Supreme Court by the order dated 20.03.2023 in S.L.P.(Crl.) No.10711 of 2022.

5.The learned Government Advocate (Crl. Side) per contra submitted that the petitioner absconded for nearly 17 years and that one of the witnesses/PW16 has specifically referred to the name of the petitioner and his



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involvement and that yet another witness, who has implicated the petitioner, has to be examined and therefore the judgment of acquittal would not enure to the benefit of the petitioner at this stage and prayed for dismissal of the revision.

6. Admittedly, the co-accused were tried and acquitted in S.C.No.1 of 2007 of all the offences charged against them. This Court had confirmed the judgment of acquittal and the SLP filed challenging the said judgment was also dismissed by the Hon'ble Supreme Court by the judgment dated 20.03.2023. It is well settled that merely because the co-accused have been acquitted, the trial against the split up accused cannot be stopped, as the role of each accused and the evidence against them has to be assessed independently by the trial Court.

7. In the light of the submission made by the learned Government Advocate that PW16 has implicated the petitioner and yet another witness,



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who was examined during the investigation and not examined in the trial held against the co-accused, has implicated the petitioner, this Court is of the view that merely because the co-accused have been acquitted, the petitioner cannot be discharged.

8.It is well settled that the sufficiency and probative value of the evidence cannot be considered at the stage of charge framing. Grave suspicion is sufficient to frame charges. This Court is of the view, as rightly held by the trial Court that there is grave suspicion to frame charges. Therefore, the impugned order passed by the trial Court does not call for any interference. Hence, the Criminal Revision Case is dismissed. The trial Court may consider and dispose of the trial as expeditiously as possible. Consequently, the connected miscellaneous petition is closed.

02.01.2025

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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SUNDER MOHAN, J.

rsi

To

- 1.The Sessions Judge,
Special Court for trial of Bomb Blast Cases,
Coimbatore District.
- 2.The Inspector of Police,
S.I.D., CB-CID,
Coimbatore
In (B4 Race Course Police Station),
Coimbatore District.
- 3.The Public Prosecutor,
High Court, Madras.

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