



Crl.O.P(MD) No.20131 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 02.01.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

Crl.O.P(MD) No.20131 of 2024

and

Crl.M.P.(MD)No.12443 of 2024

xxxxxxx

... Petitioner / 55th Accused

Vs

State rep. by
Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of B.N.S.S, praying this Court to call for the records pertaining to the charge sheet pending on the file of the Judicial Magistrate, Radhapuram in P.R.C.No.83 of 2020 filed by the respondent herein and quash the same as against the petitioner alone.

For Petitioner : Mr.L.Thanasingh

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor.



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ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. This criminal original petition has been filed to quash the proceedings in P.R.C.No.83 of 2020 on the file of the Judicial Magistrate, Radhapuram.

3. The case arises out of Crime No.349 of 2012 registered on the file of the Koodankulam Police Station. The case of the prosecution is that the 57 accused in this case formed an unlawful assembly and assaulted the police party causing injury to some of them. It is also alleged that a police vehicle was damaged. The petitioner is figuring as A55 in the final report. The occurrence had taken place on 10.09.2012. It is seen that the petitioner was born on 12.01.1995. A simple arithmetic calculation shows that he was aged below 18 years on the date of



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occurrence. Therefore, the respondent could not have included the petitioner along with the other adult accused while filing the impugned charge sheet. Paragraph No.10 of the counter affidavit filed by the respondent reads as follows:-

“10. I humbly submit that while at the time of investigation, the above petitioner was appeared on 11.09.2012 before Juvenile Justice Board at Tirunelveli. After investigation, totally 115 persons were enquired as witnesses and 161(3) of Cr.P.C statements are recorded from them. Later, the then Inspector of Police inadvertently laid charge sheet to the petitioner along with the other adult members in the same final report. That final report as against the Juvenile petitioner should have been filed before the Juvenile Justice Board at Tirunelveli. It was mistakenly not followed and his name is added as accused with other adult members. This was happened only due to the work pressure and inadvertent manner. Even though the charge sheet is pending before the learned Judicial Magistrate at Radhapuram, no prejudice is caused to the petitioner since summons is not served on him. None of the above accused are served with the summons in the above case and none of them have appeared before the court. Hence, the juvenile in conflict with the law is not prejudiced due to this error.”



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4. On the aforesaid ground, the impugned proceedings are quashed insofar as the petitioner is concerned. It is open to the respondent to take action as per law. With the aforesaid liberty, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (R.P., J.)
02.01.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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NOTE: while uploading this order, Registry is directed
to suppress the name of the petitioner.
To

1. The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.
2. The Judicial Magistrate, Radhapuram.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
R.POORNIMA, J.

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