



Suo Motu TR.(MD).No. 12705 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 13.10.2025

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Suo Motu TR.(MD).No.12705 of 2025

**(C.C.No.239 of 2010 on the file of the Judicial Magistrate Court No.II,
Nagercoil, Nagercoil Taluk, Kanniyakumari)**

The Inspector of Police,
P.E.W Police Station,
Kanniyakumari District.
In Crime No.101 of 2005

... Petitioner

Vs.

1.Ganesan @ Kani (A2)
2.Vetha Singh

... Respondent

Upon perusing the documents and case records of the above **C.C.No.239 of 2010** transmitted to this Court and hearing the arguments of **Mr.S.Ravi, learned Additional Public Prosecutor**, on behalf of the State, this Court passed the following

ORDER

Prelude:

“This dedicated bench is for implementing the pilot project to identify and dispose of criminal cases involving offences punishable with imprisonment up to 3 years pending at trial, appeal or revision stage for



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more than 3 years and also offences like Section like Section 506(ii) of IPC and others, which may carry a punishment of more than 3 years in the State of Tamil Nadu with reference to the 14 Districts coming under the Madurai Bench of Madras High Court.”

2.This Dedicated Bench has taken the **C.C.No.239 of 2010** on the file of the Judicial Magistrate Court No.II, Nagercoil, Nagercoil Taluk, Kanniyakumari, as ***Suo motu Special Tr.Case.(MD) No.12705 of 2025*** in **Suo Motu W.P.(Crl.).(MD).No.1014 of 2025**, upon proper scrutiny and considering its suitability that it is a fit case warranting the exercise of power under Article 226 of Constitution of India to quash the said C.C., without any progress for more than **fifteen years**.

3. Brief facts of the prosecution case in C.C.No.239 of 2010:

On 12.06.2005, at about 6:15 p.m., the accused was found in illegal possession of 350 litre of liquor in 10 white colour cans in a lorry bearing Reg.No.TN-51-D-1562. According to the prosecution, the accused in C.C.No.203 of 2007 and the accused in C.C.No.239 of 2010 are said to have committed offences under Section 3 (k) of TNPSC Rule, 1984 r/w 4(1)(aaa), Section 14(A) and Sections 21 & 24 of TNP Act and



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Sections 6 & 7 of TNRS Rule, 2000. Therefore, a case was registered in **Crime No.101 of 2005**. The trial was conducted against **A1 in C.C.No.203 of 2007**, on the file of the **Judicial Magistrate Court No.II, Nagercoil, Nagercoil Taluk, Kanniyakumari**. The learned trial Judge considering the available evidence acquitted the accused on the ground that the prosecution failed to prove the cases against the co-accused person in that parent case. Now the case is pending against the present remaining accused in **C.C.No.239 of 2010** on the file of the **Judicial Magistrate Court No.II, Nagercoil, Nagercoil Taluk, Kanniyakumari**.

4.Now, the question is as to whether in the face of the Judgment of acquittal against the other accused, the co-accused should still be tried in **C.C.No.239 of 2010** on the file of the **Judicial Magistrate Court No.II, Nagercoil, Nagercoil Taluk, Kanniyakumari**.

5. Discussion:

It is well settled principle that When the evidence is inseparable and indivisible against all the accused and as the main accused in the parent case were acquitted, continuation of trial against the remaining accused without chance of conviction cannot be allowed and the same has been



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fortified by the following precedents:

<i>Javed Shaukat Ali Quershi vs. State of Gujara</i> reported in (2023) 9 SCC 164	15. When there is similar or identical evidence of eyewitnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other. In such a case, the cases of both the accused will be governed by the principle of parity. This principle means that the criminal court should decide like cases alike, and in such cases, the court cannot make a distinction between the two accused, which will amount to discrimination. 19. We have found that the case of Accused 2 stands on the same footing as Accused 1, 5 and 13 acquitted by this Court. Accused 2 must get the benefit of parity. The principles laid down in <i>Harbans Singh</i> [<i>Harbans Singh v. State of U.P.</i>, (1982) 2 SCC 101 : 1982 SCC (Cri) 361] will apply. If we fail to grant relief to Accused 2, the rights guaranteed to Accused 2 under Article 21 of the Constitution of India will be violated. It will amount to doing manifest injustice. In fact, as a Constitutional Court entrusted with the duty of upholding fundamental rights guaranteed under the Constitution, it is our duty and obligation to extend the same relief to Accused 2. Therefore, we will have to recall the order passed in the special leave petition filed by Accused 2.
<i>C.B.I. V. Akilesh Singh</i> reported in <i>AIR 2005 SC 268</i> .	5....Once the main accused, who is alleged to have hatched the conspiracy and who had the motive to kill the deceased was discharged, and when that matter had attained finality, the learned Single Judge was fully justified in holding that no purpose would be served in further proceeding with the case against the respondent.



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Anbuselvam Vs. State rep. by the Inspector of Police, District Crime Branch, Namakkal reported in 2018 (2) MWN (Cr.) 442,	8.The above proposition is self-explanatory. In view of the acquittal of other three Accused, after considering the statements of the Witnesses and holding their statements to be unreliable, the Trial Court cannot re-assess their depositions once again and take a contrary view. Since the proceedings against the petitioner has to necessarily end in as acquittal, no useful purpose would be served to make the petitioner to under go the ordeal of the trial.
Tamilmaran v. State reported in 2007 (1) LW (Crl.) 514,	7. This Court is of the considered view that there is much force on the contention put forward by the learned senior counsel to the effect that the learned trial Judge having disbelieved the prosecution case in toto no useful purpose would be served by putting the petitioner to undergo the ordeal of trial on the basis of the very same set of evidence. It is also pointed out by the learned senior counsel that even the defacto complainant himself turned hostile giving a total go-by to his earlier version and there is no other material available on record to implicate the petitioner. Therefore, the above well settled principle of law laid down in the decisions cited supra, is squarely applicable to the facts of the instant case as in this case also admittedly the other accused, viz., A-1 to A-4 have been acquitted by the learned trial Judge after disbelieving the entire prosecution case and as such this Court is of the considered view that no useful purpose would be served for putting the petitioner to undergo the ordeal of trial and therefore, the proceedings pending against the petitioner in C.C.No.1146 of 1997 on the file of the learned Judicial Magistrate, Mannargudi, is hereby quashed.



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Sunil Kumar Vs. State
reported in **2000 (1)**
Crimes 73

4...Thus, the evidence adduced in the case against all the accused persons is inseparable and indivisible and that being so the petitioner cannot be treated differently on the basis of the said evidence. In this view of the matter, there is no prospect of the case ending in conviction against the petitioner and the valuable time of the Court would be wasted for holding trial only for the purpose of formally completing the procedure to pronounce the conclusion on a future date. If the Court is almost certain that the trial only would be an exercise in futility or sheer wastage of time, it is advisable to truncate or ship the proceedings at the stage of Section 227 of the code itself.

5.1. In view of the above precedents, When the main accused persons have been acquitted on the ground that no case has been made out against them, no useful purpose will be served by keeping the CC pending against the absconding accused. In the parent case, in **C.C.No.203 of 2007**, on the file of the learned **Judicial Magistrate Court No.II, Nagercoil, Nagercoil Taluk, Kanniyakumari**, the co-accused was acquitted. There is no any independent and specific evidence available against the accused in the split up new **C.C.No.239 of 2010**. Hence, there is no useful purpose will be served by putting the co accused [absconding accused] to undergo a trial, if the evidence against all the accused persons is inseparable and



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indivisible. Therefore this Court is inclined to quash the proceedings in C.C.No.239 of 2010 for the reason that there is no chance of conviction.

6.Observation:

This Court suo motu called for the records and exercised its power under Section 482 Cr.P.C. and quash the same and hence this verdict does not confer any right to any of the accused or any party to file a case against the Investigating Agency for the malicious prosecution or claim damages.

7.Precedent Value:

The observations, discussions and decision made in this particular case cannot be treated as precedent in the case arising in future as the decision has been taken in this suo moto are based on the factual and legal basis of this particular case.

8.Conclusion:

With the above observation, this Sua Motu Transfer Petition stands disposed of and **C.C.No.239 of 2010** on the file of the **Judicial Magistrate Court No.II, Nagercoil, Nagercoil Taluk, Kanniyakumari,**



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pending against the accused is hereby quashed.

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Note to the Trial Court: This order is digitally signed and communicated electronically alone. The Trial Court shall take note of the order and accordingly classify the case pending before them as allowed / dismissed / disposed of, etc, and while doing so, consider any applications such as disposal of properties, etc., and pass appropriate orders, as may be necessary. Further, the Court below is directed to dispatch the copy of this order to all concerned.

K.K.RAMAKRISHNAN,J.

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Order made in
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