

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.31204 of 2014

and

M.P.Nos.1 & 2 of 2014

Satheesh Kumar. B ... Petitioner/Accused

Vs.

State rep.by Sub-Inspector of Police,
Gudalur Police Station,
Gudalur Taluk 643 212
Nilagiri
(Crime No.61 of 2002
dated 13.02.2002 of
Gudalur Police Station
Nilagiri)

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.190 of 2002 on the file of the Judicial Magistrate cum District Munsif at Gudalur and quash the same insofar as the petitioner herein is concerned.

For Petitioner : Mr.P.V.Ravi Chandran

For Respondent : Mr.C.Emalias
Additional Public Prosecutor

ORDER

This Criminal original petition has been filed to call for the records in C.C.No.190 of 2002 on the file of the Judicial Magistrate cum District Munsif at Gudalur and quash the same insofar as the petitioner.

2. Heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the respondent and perused the material placed on record.

3. Earlier by an order dated 04.12.2014, this Court called for remarks from the learned Principal District Munsif cum Judicial

Magistrate, Gudalur, with regard to the delay in trial of the case in C.C.No.190 of 2002. The learned Judicial Principal District Munsif cum Judicial Magistrate, Gudalur, has sent a report on 19.12.2014, wherein, he has stated that there are totally 15 accused in this case and one or the other of the accused are absconding when the case was taken up for trial and on account of that, the Court was not able to commence the trial event. This Court deprecates this.

4. It is seen that on a complaint given by one Shakkir, the respondent police registered a case in Crime No.61 of 2002 on 13.02.2002 under Sections 147, 148, 341, 324, 506(ii) IPC and after completing the investigation, final report was filed in C.C.No.190 of 2002 before the learned Judicial Magistrate cum District Munsif, Gudalur for the aforesaid offences. It is the case of the petitioner that he was not shown as an accused in the FIR but he has been wrongly included in the FIR. It is the further contention that the petitioner was not even present at the scene of occurrence on 13.02.2002 as he was admitted in the Hospital in Coimbatore, after the road accident on that day.

5. In the considered opinion of this Court, alibi is a fact which has to be established only during the trial and not in proceedings under Section 482 Cr.P.C. When there are materials against the petitioner/accused, this Court cannot quash the proceedings by going into disputed questions of fact.

In the result, this criminal original petition is dismissed with liberty to the petitioner to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

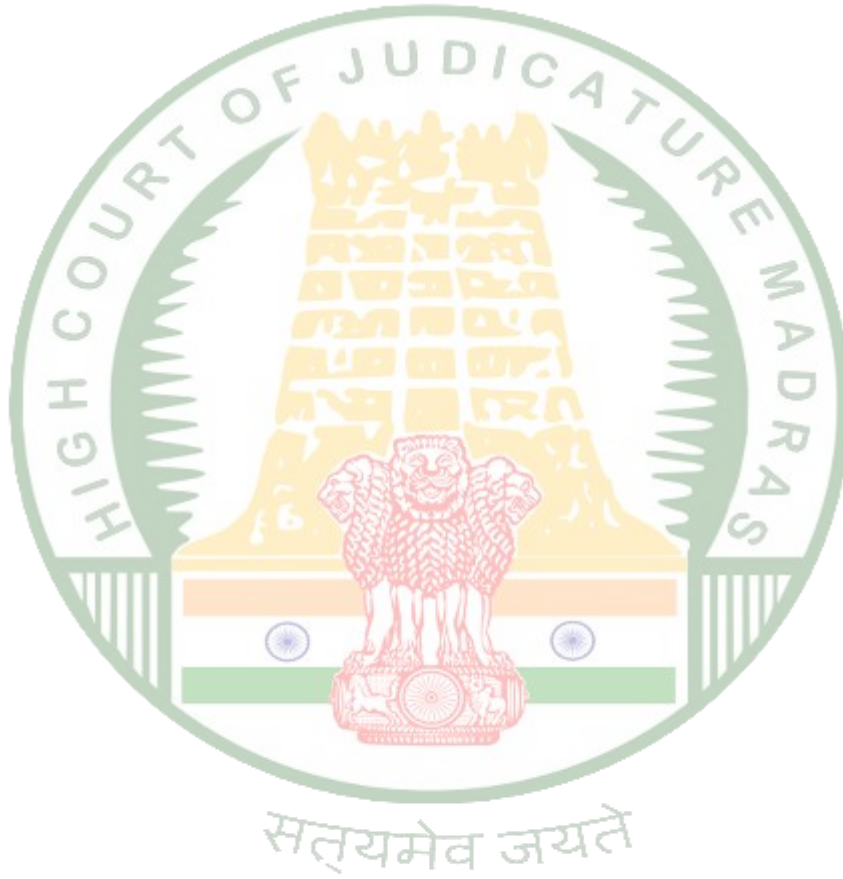
To

1. The Judicial Magistrate cum District Munsif,
Gudalur
2. -Do- The Chief Judicial Magistrate,
Nilagiris.
3. Sub-Inspector of Police,
Gudalur Police Station,
Gudalur Taluk 643 212
Nilagiri

4. The Public Prosecutor,
High Court, Madras.

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