

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.20436 of 2015

H.Sathak Ahmed Shaw .. Petitioner
Vs

1.The Inspector of Police,
J-9, Thuraipakkam Police Station,
Kancheepuram District.

2.N.Dhanraj Kochar
3.Inderchand D.Kochar
4.D.Duresh Kumar Kochar
5.Naveen Kumar Kochar
6.Ramesh Kumar Kochar
7.Shrenic Kumar
8.Jitesh Kumar
9.Tmt.Rajkumar
10.Tmt.Anitha
11.Tmt.Sarala

.. Respondents

Criminal Original Petition filed under Section 407 Cr.P.C.,
praying to withdraw the case in C.C.No.530 of 2007 from the file of
the Judicial Magistrate, Alandur and to transfer the case to the
file of any Court in Chennai District.

For Petitioner : Mr.S.Doraisamy
For Respondents : Mr.C.Emalias,
Addl. Public Prosecutor for R1
Mr.P.L.Narayanan for R2 to R11

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O R D E R

This Criminal Original Petition has been filed to withdraw the
case in C.C.No.530 of 2007 from the file of the Judicial
Magistrate, Alandur and to transfer the case to the file of any
Court in Chennai District.

2. Heard Mr. Mr.S.Doraisamy, learned counsel for the
petitioner, Mr.C.Emalias, learned Additional Public Prosecutor
appearing for the 1st respondent and Mr.P.L.Narayanan, learned
counsel appearing for respondents 2 to 11/accused.

3. Without going into the allegations made in the petition, this Court is of the view that it will serve the interest of the justice, if the trial Court is directed to strictly follow the provisions under Section 239 of Cr.P.C. by hearing the prosecution and defence and taking a decision with regard to the framing of charges or otherwise against all the accused, within a period of four weeks from the date of receipt of a copy of this order. It is not necessary for each accused to file a discharge application. It is the duty of the Court, under Section 239 Cr.P.C., to first ensure that all the accused are represented by lawyers. After ensuring the same, on a fixed date, the Court shall hear the prosecution and defence. If the Court finds that the charges against some of the accused is groundless, it can discharge the accused after recording its reason for so doing. If not, the Court shall frame charges as laid down in Section 240 Cr.P.C. This Court is aware of the tactics adopted by the accused to delay the trial by filing discharge applications one after the other and prolong the case. This cannot be permitted under law. If the accused adopts dilatory or delaying tactics, the learned Magistrate is entitled to cancel their bail, even if the bail has been granted by the superior Court and remand them to custody as held by the Supreme Court in P.K.Shaji vs. State of Kerala 2005 reported in AIR SCW 5560 and State of U.P. Vs. Shambhu Nath Singh and others reported in 2001 (4) SC 319.

With the above observation, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Judicial Magistrate, Alandur.

2. The Inspector of Police,
J-9, Thuraipakkam Police Station,
Kancheepuram District.

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.S. Doraisamy, Advocate Sr.43030

+ 1 cc to P.L. Narayanan, Advocate Sr.43030

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GGK(CO)

En 03.09.15

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