

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.15718 of 2016 &

CrI.M.P.Nos.7713 and 7714 of 2016

1.N.MoorthyPetitioner/Accused 2
2.M.SundariPetitioner/Accused 3
3.M.CharumathiPetitioner/Accused 4
Petitioners

Vs

1.The State
rep by the Inspector of Police
All Women Police Station
Mannargudi, Thiruvarur District...Respondent/Complainant

2.A.MangaiyarkarasiRespondent/Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482
Cr.P.C., to call for the records pertaining to the Final Report
filed in C.C.No.17 of 2015 on the file of the Judicial
Magistrate, Mannargudi and quash the same as illegal.

For petitioners : Mr.Padmanabhan
Senior Counsel
for Mr.S.B.Viswanathan
For R1 : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

When this Court was about to dismiss the case on merits,
the learned Senior Counsel for the petitioners sought permission
of this Court to withdraw this petition and the learned counsel
on record has made an endorsement to that effect.

2. In view of the above endorsement made by the learned
counsel for the petitioners, this petition is dismissed as
withdrawn. Consequently, connected miscellaneous petitions are
closed.

3. At that juncture, the learned Senior Counsel for the
petitioners submitted that the Court has not served summons on

Mukesh Moorthy [A1] who is said to be in London and therefore, these petitioners are attending the Court every time and no effective progress has been made by the trial Court. Hence, their presence may be dispensed with. The petitioners are directed to be present for receiving the charge sheet, for answering the charge, at the time of questioning under Section 313 Cr.P.C. and at the time of passing judgment. The petitioners shall file an affidavit of undertaking before the trial Court that they will not dispute their identity and that their counsel will cross examine the prosecution witnesses on the day they are examined-in-chief and that they will not adopt dilatory tactics. On such undertaking, the trial Court shall dispense with the personal appearance of the petitioners. The trial Court shall ensure that the accused cross examines the witnesses on the day they are examined-in-chief as directed by the Supreme Court in Vinoth Kumar vs. State of Punjab [2015(1) MLJ (crl) 288]. If the accused adopts any dilatory tactics, it is open to the trial Court to remand them to custody in terms of the law laid down by the Supreme Court in State of Uttar Pradesh v. Shambunath Singh [JT 2001 (4) SC 319]. If the trial Court wants the presence of the accused for a hearing it need not send fresh summons and it will suffice if the counsel engaged by the accused is informed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms
To

1. Judicial Magistrate, Mannargudi.
2. Do Thro The Chief Judicial Magistrate
Tiruvarur
3. The Inspector of Police
All Women Police Station
Mannargudi, Thiruvarur District.
4. The Public Prosecutor,
High Court, Chennai.

Cr1.OP No.15718 of 2016

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