

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.23513 of 2016
and CRL MP Nos.11030 of 2016

Vijayakumar

... Petitioner

Vs

State rep. by
Inspector of Police,
T6, Avadi Police Station,
Chennai- 600 054.

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to C.C.No.359/2016 on the file of the learned Judicial Magistrate No.II, Poonamallee and quash the same.

For Petitioner : Mr.S.Rajendran

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This petition has been filed to call for the records relating to C.C.No.359/2016 on the file of the Judicial Magistrate No.II, Poonamallee and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. When this court was about to dismiss this petition on merits, the learned counsel for the petitioner sought permission to withdraw this petition and has made an endorsement to that effect.

4. At this juncture, learned counsel for the petitioner submitted that the petitioner is working in Bombay and his presence before the Trial Court may be dispensed with. Learned

counsel for the petitioner submitted that the de facto complainant is none other than the sister-in-law of the petitioner and on account of family dispute, the aforesaid incident is said to have occurred.

5. Taking into consideration the facts and circumstances, the petitioner is 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 petitioner shall file an affidavit of undertaking before the Trial Court that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined-in-chief, as held by the Supreme Court in Vinod Kumar Vs. State of Punjab, 2015 (1) MLJ (CrL.) 288. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon his presence or remand him to custody in terms of the law laid down by the Supreme Court in State of Uttar Pradesh v. Shambhu Nath Singh [JT 2001 (4) SC 319]. If the petitioner absconds, a fresh FIR should be registered against him u/s 229-A IPC.

6. With the above direction, this Criminal Original Petition is dismissed as withdrawn. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kmi

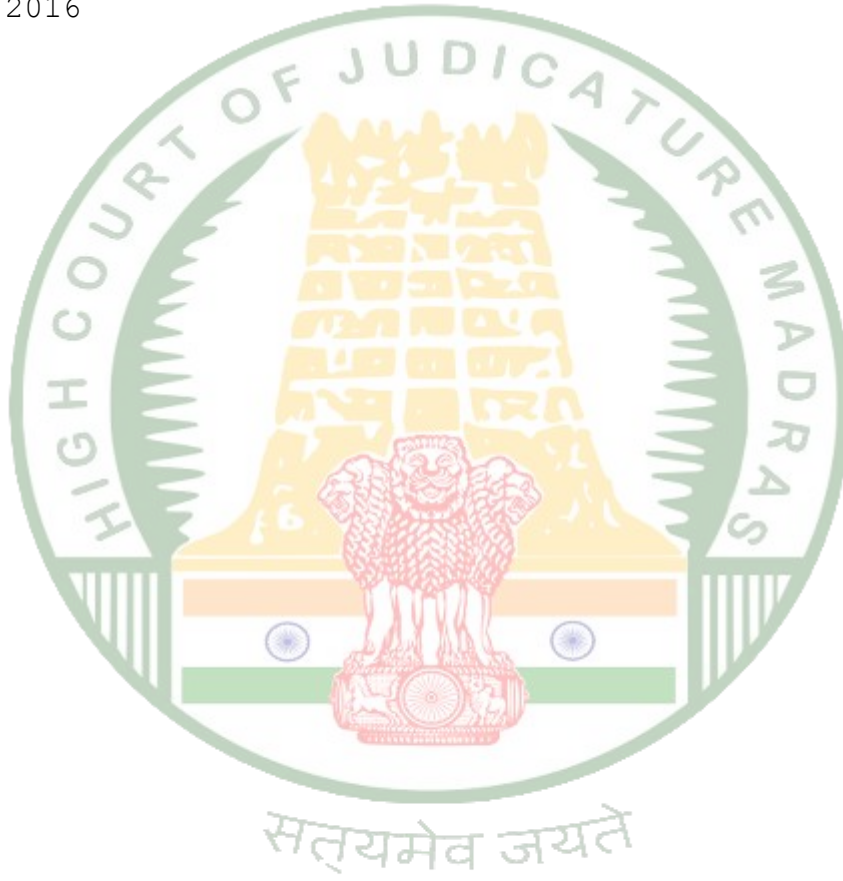
To

1. The Judicial Magistrate Court No.II,
Poonamallee.
2. -Do- Thro The Chief Judicial Magistrate,
Kancheepuram.
3. The Inspector of Police,
T6, Avadi Police Station,
Chennai- 600 054.

4. The Public Prosecutor,
High Court, Madras.

Crl.OP No.23513 of 2016

skv[co]
srg 16/11/2016



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