

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.25853 of 2016

and

CrI.M.P.No.12759 of 2016

1. M.Adhiyaman
2. M.Sidharaman
3. M.Sarasu
4. L.Madhaiyan
5. Thamaraiselvi ..Petitioners/Accused

vs.

1. State by
Inspector of Police
All Women Police Station
Dharmapuri.

2. G.Sakthimozhi ...Respondents/Complainant
Defacto Complainant

Criminal Original Petition filed under Section 482, Cr.P.C.
to call for the records and quash all proceedings, including
charge sheet in C.C.No.247 of 2016, pending on the file of the
Judicial Magistrate II, Dharmapuri.

For petitioners : Mr.R.Sivaprakasam
For Mr.D.Ramesh Kumar

For R1 : Mr.C.Emalias
Additional Public Prosecutor

ORDER

When this Court was about to dismiss this case on merits,
the learned counsel for the petitioners sought permission of
this Court to withdraw this petition and he has also made an
endorsement to that effect. Permission is granted.
Accordingly, this petition is dismissed as withdrawn.
Consequently, connected miscellaneous petition is closed.

2. At this juncture, the learned counsel for the petitioners submitted that the presence of the petitioners 3, 4 and 5 before the trial Court may be dispensed with.

3. Accepting his submission, the petitioners 3, 4 and 5 are directed to appear before the trial Court and thereafter, their presence shall be dispensed with on condition that, they shall be present for receiving the complaint, for answering the charge, at the time of questioning under Section 313, Cr.P.C. and at the time of passing judgment. They shall file an affidavit of undertaking before the Trial Court that they will not dispute their identity and that the counsel named by him in the affidavit 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 (Cr1.) 288]. If the petitioners adopts any dilatory tactics, it is open to the Trial Court to insist upon their presence and remand them to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If thereafter the petitioners absconds, the trial Court shall direct registration of an FIR against them u/s 229-A IPC.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate-II, Dharmapuri.
- 2 Do Thro The Chief Judicial Magistrate, Dharmapuri
3. The Inspector of Police
All Women Police Station, Dharmapuri.
- 4.The Public Prosecutor, High Court, Madras.

+1cc to Mr. D. Ramesh Kumar, Advocate Sr.NO.70471

msm(CO)
md(21/12/2016)

Cr1.O.P. No.25853 of 2016