



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. (MD) No.6190 of 2016

and

Crl.M.P. (MD) Nos.3075 & 3076 of 2016

1.Kamalam
2.Umapathi
3.Nithya
4.Tamilmani
5.Kathiresan

... Petitioners / Accused No.2 to 6

vs.

1.The State by
The Inspector of Police
All Women Police Station
Melur, Madurai District
(Crime No.9 of 2012)

... Respondent / Complainant

2.M.Sasikala

... Respondent/Defacto Complainant

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.83 of 2012, on the file of the Judicial Magistrate, Melur, Madurai and quash the same.

For Petitioners: Mr.M.Jegadeesh Pandian

For Respondents: Mrs.S.Prabha, G.A.(Crl.Side) for R1

ORDER

As this Court is about to dismiss the criminal original petition, the learned counsel appearing for the petitioners seeks permission of this Court to withdraw the same and he has also made an endorsement to that effect.

2. In view of the above, this criminal original petition is dismissed as withdrawn.

3. At this juncture, the learned counsel for the petitioners submitted that the first accused in this case is in Malaysia and he has dual citizenship and he is an absconding accused. Under such circumstances, the Trial Court is directed to split-up the case, in C.C.No.83 of 2012, as against the petitioners / accused 2 to 6 and proceed with the trial.



4. Further, the learned counsel appearing for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.

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5. Accepting the submission, this Court directs the petitioners 1, 3 and 4 / accused 2, 4 and 5 to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioners 1, 3 and 4 / accused 2, 4 and 5 file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses in their absence on the day they are examined in chief without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioners 1, 3 and 4 / accused 2, 4 and 5 adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence. If the petitioners 1, 3 and 4 / accused 2, 4 and 5 adopt dilatory tactics, they can be remanded to custody under Section 309 Cr.P.C., as laid down by the Hon'ble Supreme Court in **State of U.P. vs. Shambhu Nath Singh**, reported in **2001 (4) SCC 667**. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate, Melur

2.The Inspector of Police,
All Women Police Station,
Melur, Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Jegadeesh Pandian,Advocate Sr.No.20950

krk

AA/SKS-RR/28.04.2016/2p-5c

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