



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD)No.6903 of 2016

and

Crl.M.P.(MD)Nos.3474 and 3475 of 2016

1.S.H.Zakir Hussain

2.Raja

3.Esakki Konar

4.Soosairaj

..Petitioners/Accused 1 to 4

Vs

1. The State rep. By its
The Inspector of Police,
Arumuganeri Police Station,
Arumuganeri,
Thoothukudi District.

.. 1st Respondent/Complainant

2. S.A.Asraf

.. 2nd Respondent/
Defacto Complainant

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for records as made in P.R.C.No.37 of 2015 on the file of the learned Judicial Magistrate, Tiruchendur, Thoothukudi District by the first respondent in connection with Crime No.46 of 2014 on the file of the Inspector of Police, Arumuganeri Police Station, Arumuganeri, Thoothukudi District and quash the same.

For Petitioners : Mr.S.Palani Velayutham

For R - 1 : Mrs.S.Prabha
Government Advocate (Crl.Side)

O R D E R

When this Court was about to dismiss the case on merits, the learned Counsel appearing for the petitioners sought permission of this Court to withdraw this Criminal Original Petition and he has also made an endorsement to that effect.

<https://hcservices.ecourts.gov.in/hcservices/>
In view of the above, this Criminal Original Petition is dismissed as withdrawn, with liberty to raise all the points



before the trial Court. The trial Court is directed to expeditiously conduct the trial. Consequently, the connected Miscellaneous Petitions are also dismissed.

3. At this juncture, learned counsel appearing for the petitioners submits that the presence of the petitioners before the Trial Court may be dispensed with.

4. Since first petitioner-S.H.Zakir Hussain is an Advocate, this Court directs the first petitioner 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 first petitioner file an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the first petitioner adopt any dilatory tactics, it is open to the Trial Court to insist upon his presence and remand him to custody, as held by the Supreme Court in State of Uttar Pradesh Vs. Shambhu Nath Singh, reported in 2001 (4) SCC 667.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1. The Inspector of Police,
Arumuganeri Police Station,
Arumuganeri,
Thoothukudi District.

2. The Judicial Magistrate,
Tiruchendur,
Thoothukudi District.

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

+1CC to M/S.S.Palanivelayutham, Advocate, SR.No. 25800

PS

JM/MP/12.05.2016/2P-5C

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and

Cr1.M.P. (MD) Nos.3474 and 3475 of 2016
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