



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.7139 of 2016

and

CrI.M.P.(MD) Nos.3608 & 3609 of 2016

C.Vellaiammal

... Petitioner / 1st Accused

vs.

1.State, rep.by

The Inspector of Police

South Police Station

Thoothukudi

(Crime No.192 of 2013)

... 1st Respondent / Complainant

2.R.Chandrasekar

... 2nd Respondent / De facto
Complainant

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.195 of 2015, on the file of the learned Judicial Magistrate No.I, Thoothukudi and quash the same.

For Petitioner : Mr.S.M.Mohan Gandhi

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

O R D E R

When this Court was about to dismiss the criminal original petition on merits, the learned counsel appearing for the petitioner / first accused seeks permission of this Court to withdraw the same and he has made an endorsement to that effect.

2. In view of the above, this criminal original petition is dismissed as withdrawn, with liberty to raise all the points before the Trial Court.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.

3. At this juncture, learned counsel appearing for the petitioner / first accused has submitted that the presence of the petitioner / first accused before the Trial Court may be dispensed with.

<https://hcservices.courts.gov.in/services> 4. Upon receiving the submission and also taking into consideration the fact that the petitioner / first accused has the fundamental right to fair trial, this Court directs the petitioner / first



accused 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 petitioner / first accused files an application under Section 317 Cr.P.C., undertaking that she will not dispute her identity and that her counsel will cross-examine the prosecution witnesses in her 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 petitioner / first accused adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence. If the petitioner / first accused adopts dilatory tactics, she 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 miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
Thoothukudi.

2.The Inspector of Police,
South Police Station,
Thoothukudi.

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

+1cc to Mr.S.M.Mohan Gandhi, Advocate Sr.No.24376

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