



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.4059 of 2017

and

Crl.M.P. (MD) Nos.2931 and 2932 of 2017

Ajmalkhan

: Petitioner

-Vs-

1.State Represented by

The Inspector of Police,
All Women Police Station,
Uttamapalayam,
Theni District.
Crime No.11 of 2013.

2.Baragath Nisha

: Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for records and quash the Charge Sheet laid against the petitioners in C.C.No.2 of 2017 on the file of the Judicial Magistrate, Uthamapalayam, Theni District.

For Petitioner : Mr.R.Suriyanarayanan

For Respondent No.1 : Mr.A.P.Balasubramani,
Government Advocate (Crl.side)

O R D E R

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

2. Permission is granted. This Criminal Original Petition is dismissed as withdrawn with liberty to the petitioner to raise all the points before the Trial Court. Consequently, the connected miscellaneous petitions are closed.

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

4. Accepting the submission, this Court directs the petitioner to appear before the Trial Court for collecting the final report 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 files 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 on the day they are examined in chief, as held by the Hon'ble Supreme Court in *Vinod Kumar vs. State of Punjab* reported in 2015 (1) Scale 542, in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If he absconds, a fresh First Information Report can be registered against him under Section 229-A of the Indian Penal Code. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Uthamapalayam, Theni District.

2.The Inspector of Police,
All Women Police Station,
Uttamapalayam,
Theni District.

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

+1cc to Mr.R.SuriyaNarayanan,Advocate,SR.52599

CRL.O.P. (MD) No.4059 of 2017

Dated:19.04.2017

SML

kk/MMS/10.05.2017-2P-5C