

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.27398 of 2016

and

Crl.M.P.Nos.13949 & 13950 of 2016

P.Gopinathan

.. Petitioner

Vs.

State of Tamilnadu
Represented by the Inspector of police
Department of Vigilance & Anti Corruption
Salem.

... Respondent

PRAYER: This Criminal Original petition is filed Under Section 482 of Cr.P.C to call for the records in Spl.C.C.No. 05 of 2016 on the file of the learned Special Court for trial of cases under the Prevention of Corruption Act, Salem and quash the same.

For Petitioner : Mr. S. Subramanian

For Respondent : Mr. R.Ravichandran
Government Advocate (Crl.Side)

O R D E R

The learned counsel for the petitioner has filed this petition under Section 482 Cr.P.C., to call for the records in Spl.C.C.No. 05 of 2016 on the file of on the file of the learned Special Court for trial of cases under the Prevention of Corruption Act, Salem and quash the charges framed against the petitioner.

2.It is the contention of the petitioner that the respondent has registered an FIR against him in Crime No.9/AC/15 dated 20.08.2015 on the file of the Department of Vigilance and Anti Corruption at Salem. On the basis of the complaint laid against the petitioner by one R.Kumar alleging that the petitioner demanded bribe from the said informant, the respondent proceeded to investigate and laid a final report on 08.09.2016 before the learned Special Court for trial of cases

under the Prevention of Corruption Act at Salem.

3. Though the learned counsel for the petitioner has raised several grounds in this petition, after some arguments, he restricted his prayer only to raise all the grounds before the Trial Court at the time of Trial. The learned counsel would submit that since the petitioner's appearance to be dispensed with.

4. Heard the learned Government Advocate (Crl. Side) as well as the learned counsel for the petitioner.

5. The learned Government Advocate would accede to the request of the petitioner to raise all the grounds during the Trial and the petitioner's appearance shall be dispensed with.

6. Accepting the said submissions made on either side, the presence of the petitioner before the Trial Court shall be dispensed with on condition that, they shall be present for receiving the charge sheet, for answering the charge, at the time of questioning under Section 313, Cr.P.C and at the time of passing judgment. For the other hearings, the petitioner shall file a petition before the Trial Court under Section 317 Cr.P.C., giving an undertaking they they will not dispute their identity and that the counsel named by them 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 (Crl) 288]. On such application being filed, the trial Court may liberally consider the same. If the accused 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 the accused absconds, the trial Court shall direct registration of an FIR against them under Section 229-A IPC.

7. Accordingly, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

smn/kas

To.

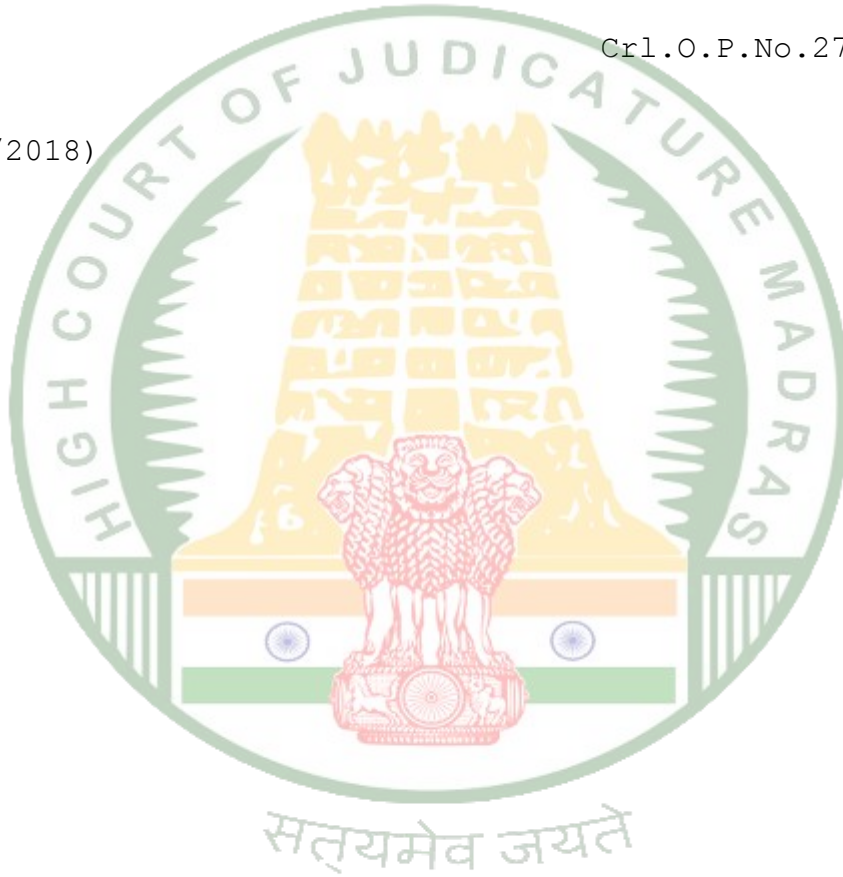
1.The Inspector of police
Department of Vigilance & Anti Corruption
Salem

2.The Public Prosecutor (Dept. of Anti corruption)
High Court of Madras
Madras 600 104

+lcc to Mr.S.Subramanan, Advocate SR.No.82506

Cr1.O.P.No.27398 of 2016

SSV(CO)
GMY(28/12/2018)



WEB COPY