

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.2059 of 2018
and
Cr1.MP.Nos.776 & 4620 of 2018

V.Babu .. Petitioner

Vs

1.Mahendran

2.R.Vinodkumar ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in STC No.291/2016 pending on the file of the Judicial Magistrate Court No.1, Thirupattur, Vellore District and quash the same.

For Petitioner : Mr.S.Mahaveersshivaji

For R1 : Mr.S.Anburaja

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 the same and has also made an endorsement to that effect.

2. In view of the endorsement made by the learned counsel for the petitioner, this petition is dismissed as withdrawn with liberty to the petitioner to raise all the points before the trial Court.

3. However, the learned counsel for the petitioner submitted that the prosecution has been lodged before the Judicial Magistrate Court No.1, Tirupattur, Vellore District and that the petitioner is working in Chennai, and therefore, the presence of the petitioner before the trial Court may be dispensed with.

4. Accepting his submission, the petitioner is directed to appear before the trial Court within a period of two weeks from the date of receipt of a copy of this order. On his appearance, he shall file a petition under Section 436(1) Cr.PC, for bail and the trial Court shall release him on bail on the same day, on he executing a bond for Rs.5,000/- with two sureties.

Thereafter, the petitioner shall appear before the trial Court for receiving the complaint, for questioning under Section 251 Cr.PC, 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.PC., giving an undertaking that he will not dispute his identity and that the counsel named by him in the affidavit will cross-examine the prosecution witnesses on the day he is examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288], 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 his presence and remand him 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 him under Section 229-A IPC.

5. The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Judicial Magistrate Court No.1,
Thirupattur,
Vellore District.

2. Do Thro The Chief Judicial Magistrate
Thirupattur , Vellore District.

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