

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.12375 of 2018

and

Crl.MP.Nos.6589 & 6590 of 2018

1.A.Mohaboob Basha

2.M.Hasina Begum @ Hasina .. Petitioners/Accused 2 & 3
Vs

1.State of Tamil Nadu
Rep. Inspector of Police
W-30, All Women Police Station
Poonamallee, Chennai. .. 1st Respondent/Complainant

2.B.Durdana Fathima2nd Respondent/Defendant
Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings in C.C.No.237 of 2017 on the file of the Judicial Magistrate No.1 at Poonamallee and quash the same.

For Petitioners : Mrs.A.Parveen
For Respondents : Mrs.Kritika Kamal.P
Government Advocate (Crl. Side)
For R1

O R D E R

When this Court was about to dismiss this petition on merits and since there are prima facie materials for framing charges, the learned counsel for the petitioners 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 In view of the endorsement made by the learned counsel for the petitioners, this petition is dismissed as withdrawn with liberty to the petitioners to raise all the points before the trial Court.

3. However, the learned counsel for the petitioners submitted that the presence of the petitioners before the trial Court may be dispensed with.

4. Accepting her submission, the petitioners/accused 2 & 3 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 petitioners/accused 2 & 3 shall file a petition before the trial Court under Section 317 Cr.PC., giving an undertaking that 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 (Cr1) 288]. On such a petition being filed, the trial Court may liberally consider the same. If the accused adopt 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 abscond, the trial Court shall direct registration of an FIR against him under Section 229-A IPC. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-iv)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1,
Poonamallee.

2. The Inspector of Police
W-30, All Women Police Station
Poonamallee, Chennai.

3. The Public Prosecutor,
High Court, Madras.

Cr1.OP No.12375 of 2018

ssv(CO)
TR(16/05/2018)