

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CrI.O.P.No.23377 of 2018 and

CrI.M.P.Nos.13077 & 13079 of 2018

Elavarasan

.. Petitioner

Vs

1.The State

Rep. by the Inspector of Police,
T.Palur Police Station,
Ariyalur District.

2.Arjunan

..Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the charge sheet in C.C.No.209 of 2017 pending on the file of the learned Judicial Magistrate at Jayankondam and quash the same as illegal, incompetent and abuse of process by allowing the present Criminal Original Petition.

For Petitioner : Mr.Guruprasadh
for Mr.R.Jayaprakash

For R1 : Mrs.M.Prabhavathi
Additional Public Prosecutor
O R D E R

When the Court was about to dismiss this petition on merits, learned counsel for the petitioner sought permission of this Court to withdraw the same and he has also made an endorsement to that effect. Permission is granted. Accordingly, this Criminal Original Petition is dismissed as withdrawn with liberty to the petitioner to raise all the points before the trial Court, after the charges are framed. Consequently, connected Miscellaneous Petitions are closed.

2. At this juncture, the learned counsel for the petitioner submitted that the presence of the petitioner before the trial Court may be dispensed with.

3. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that, he shall be present before the trial Court for receiving the complaint under Section 207 Cr.P.C., 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 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 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 application being filed, the trial Court may liberally consider the same. If the petitioner/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 petitioner/accused absconds, the trial Court shall direct registration of an FIR against him under Section 229-A IPC.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police,
T.Palur Police Station,
Ariyalur District.
- 2.The Judicial Magistrate,
Jayankondam.
- 3.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.R.Jayaprakash, advocate, sr.69564.

Krd 23/10

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