



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 06.12.2018
CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

WEB COPY

Crl.O.P.(MD)No.21632 of 2018

and

Crl.M.P.(MD)No.10017 and 10018 of 2018

1.Karuppaiah

2.Latha

3.K.Anand

...Petitioners

Vs.

1.The Inspector of Police,
Odaipatti Police Station,
Odaipatti, Uthamapalayam Taluk,
Theni District.

(Crime No.240 of 2015)

(S.T.C.No.2728 of 2017)

2.Vijayaraman

... Respondents

PRAYER: Criminal Original Petition - filed under Section 482 of the Cr.P.C., to call for the records relating to the case in S.T.C.No.2728 of 2017 on the file of the learned Judicial Magistrate, Uthamapalayam and quash the same.

For Petitioners

:Mr.K.Guhan

For R-1

:Mr.A.Robinson

Government Advocate

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.2728 of 2017 on the file of the learned Judicial Magistrate, Uthamapalayam.

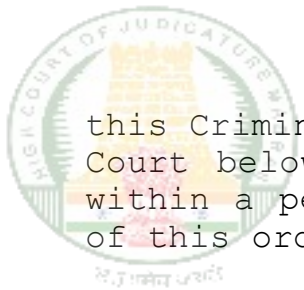
2. Heard learned counsel for the petitioners and the learned Government Advocate for the first respondent.

3. The learned counsel appearing for the petitioners would submit that there are previous civil suits pending between the parties and that in order to wreck vengeance, a complaint has been given against the family members.

4. In the considered view of this Court, the grounds raised by the petitioners are purely factual in nature. The said grounds can be raised only before the Court below, in the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law.

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5. Therefore, there is no merit in this petition. Hence,



this Criminal Original Petition is dismissed with a direction to the Court below to complete the proceedings in S.T.C.No.2728 of 2017, within a period of three months from the date of receipt of a copy of this order.

6. At this juncture, the learned Counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.

7. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on conditions that they shall be present for receiving charge sheet, for initial questioning and for answering the charges, at the time of questioning under Section 313 Cr.P.C., and passing of judgment.

8. The petitioners are further directed to give an undertaking in the form of affidavit that the counsel representing them will cross examine the prosecution witnesses on the day when they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court, in the event of their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, in **State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Judicial Magistrate, Uthamapalayam.

2.The Inspector of Police,
Odaipatti Police Station,
Odaipatti, Uthamapalayam Taluk, Theni District.

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

+1cc to Mr.K.Guhan Advocate in SR.No.98878

Cr1.O.P. (MD) .No.21632 of 2018
06.12.2018

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