



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASHCRL.O.P.(MD)No.18747 of 2016

WEB COPY

P.Sundaresan

: Petitioner /Accused

-Vs-

1.The State rep. by the
Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil,
Kanyakumari District.
(in Crime No.5 of 2013).

..1st Respondent/Complainant

2.C.Salvan Thurai,
S/o.A.Chinniah,
Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil,
Kanyakumari District.

: 2nd Respondent/Defacto Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the charge sheet in Spl.Case No.1 of 2016 on the file of learned Chief Judicial Magistrate -cum- Special Judge, Nagercoil and quash the same as illegal.

For Petitioner : Mr.J.Sulthan Basha,
For M/s.Ajmal Associates
For Respondent No.1 : Mr.C.Mayil Vahana Rajendran,
Additional Public Prosecutor
For Respondent No.2 : No Appearance

ORDER

When this Court was about to dismiss this petition on merits, the learned counsel for the petitioner sought permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

2. Permission is granted. The Criminal Original Petition is dismissed as withdrawn with liberty to the petitioner to raise all the points before the Trial Court, after the charges are framed, since there are *prima facie* materials available in this case for framing of charges. The Trial Court is directed to proceed with the trial in Special Case No.1 of 2016 expeditiously.

3. At this juncture, the learned counsel appearing for the petitioner submits that the presence of the petitioner before the Trial Court may be dispensed with.



4. Accepting the submission, this Court directs the petitioner to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses on the day they are examined in chief, as held by the Hon'ble Supreme Court in Vinod Kumar vs. State of Punjab reported in 2015 (1) Scale 542, in his absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If he absconds, a fresh First Information Report can be registered against him under Section 229-A of the Indian Penal Code. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Chief Judicial Magistrate -cum- Special Judge,
Nagercoil.
- 2.The Inspector of Police,
Vigilance and Anti-Corruption,
Nagercoil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.Ajmal Associates, Advocate, SR.No.44829

SML

RL/5C/2P/SKN/RSK/SAR2/13/2/2018

Order made in

CRL.O.P. (MD) No.18747 of 2016