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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD)No.19487 of 2018

and

Crl.M.P.(MD) Nos.8853 and 8854 of 2018

Sibu

... Petitioner/1st accused

Vs.

1. State Represented by,
Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.
(Crime No.8 of 2017)

...1st Respondent/Complainant

2.Rajesh Kumar

...2nd Respondent/De facto
Complainant

Prayer: This Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to in C.C.No.28 of 2017 on the file of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District and quash the same in so far as it relates to the petitioner.

For Petitioner	: Mr.C.Murugesan
For R-1	: Mr.K.Suyambulinga Bharathi, Government Advocate (Crl.Side).

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.28 of 2017 on the file of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District.

2. Heard learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

3.The learned counsel for the petitioner would submit that the entire allegations in this case is as against A-1. The counter complaint has also been made against the de facto complainant and the respondent police have registered the First Information Report in Crime No.09 of 2017. According to the learned counsel for the petitioner, this petitioner has been unnecessarily arrayed as an accused.

4.The learned counsel raised several issues which are factual in nature. This Court cannot go into the factual dispute and it is left open to the accused to raise all the grounds before the



Court below and the Court below shall consider the same on its own merits and in accordance with law.

5.The learned Government Advocate (Crl.Side) would submit that there is Non-Bailable warrant pending against the petitioner.

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6.The petitioner is directed to appear before the Court below and file a petition under Section 70(2) of Cr.P.C and the Court below is directed to pass an order recalling the Non-Bailable Warrant. The presence of the petitioner is dispensed with and he shall be represented by a counsel. The petitioner shall be present before the Court below at the time of receiving the documents, framing the charges, questioning under Section 313 of Cr.P.C and at the time of passing the judgment. The counsel representing the petitioner shall examine the witnesses on the same date they are examined in chief. The petitioner shall not dispute the identity of the witnesses.

7.In the result, the Criminal Original Petition is dismissed with the above directions. The Court below is directed to complete the entire proceedings within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate No.II,
Kuzhithurai, Kanyakumari District.
2. The Chief Judicial Magistrate,
Kanyakumari District.(For Information)
3. The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Murugesan, Advocate Sr.No.93936

Cp

VB/SKN/SAR1/03.12.2018/2P/6C