



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P. (MD) .No.19603 of 2018

and
Crl.M.P. (MD) Nos.8932 and 8933 of 2018

1.C.Shankar

2.R.Chandra Mohan

...Petitioners/Accused 1 & 2

Vs.

1. The State represented by
The Inspector of Police,
Pudukadai Police Station,
Kanyakumari District.

... 1st Respondent /Complainant

2. K.Kamaraj

... 2nd Respondent/
Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the record of the charge sheet in C.C.No. 87 of 2018 on the file of the Judicial Magistrate Court No. II at Kuzhithurai, Kanyakumari district, and quash the same.

For Petitioners :Mr.L.Victoria Gowri

For R-1 :Mr.R.Anandharaj
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in in C.C.No. 87 of 2018 on the file of the Judicial magistrate Court No. II at Kuzhithurai, Kanyakumari District.

2.Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the official respondent.

3.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.

4.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 C.C.No.87 of 2018, within a period of three months from the date of receipt of a copy of this order.



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

4. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present at the time of questioning under Section 313 of Cr.P.C. and at the time of passing judgment.

5. 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 they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial 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 **JT 2001(4) SC 319**. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judicial Magistrate No. II ,
Kuzhithurai,
Kanyakumari district.
2. The Inspector of Police,
Pudukadai Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.L.Victoria Gowri, Advocate Sr.No.94582

LS

VB/SKN/SAR1/30.11.2018/2P/5C