



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Crl.O.P. (MD) No.20472 of 2018

and

Crl.M.P. (MD) Nos.9456 & 9457 of 2018

Ajikumar

: Petitioner

Vs.

1. The State Represented by
The Sub-Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari District.
(Crime No.509 of 2016)

2. Durairaj

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.No.150 of 2017 pending before the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and quash the proceedings against the petitioner.

For Petitioner	: Mr.G.V.Vairam Santhosh
For R1	: Mr.R.Anandharaj
	Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records in C.No.150 of 2017 pending on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and quash the proceedings against the petitioner.

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

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

<https://hcservices.ecourts.gov.in/hcservices/>

4. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he

shall be present for receiving charge sheet, for initial questioning and for answering the charges, at the time of questioning under Section 313 of Cr.P.C and passing of judgment.

5. The petitioner is 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 petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event if his presence is insisted by the trial Judge for the purpose of identification. If the petitioner adopts any dilatory tactics, it is open to the trial court to insist for his appearance and deal with the petitioner 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**.

6. This Criminal Original Petition is dismissed as withdrawn. Consequently, CrI.M.P.(MD)No.9457 of 2018 is ordered and connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.
2. The Sub-Inspector of Police, Kaliyakavilai Police Station, Kanyakumari District.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
4. The Section Officer, Criminal Section, Madurai Bench of Madras High Court, Madurai. (2 Copies)

+ 1 CC TO Mr.G.V.VAIRAM SANTHOSH, ADVOCATE IN SR No. 96155

DAS

TE/SV/SAR-2 : 11/12/2018 : 2P/7C