



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2018

CORAM:

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THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

CrI.O.P. (MD) No.20473 of 2018

and

CrI.M.P. (MD) Nos.9458 & 9459 of 2018

1.Ajikumar
2.Anilkumar

: Petitioners

Vs.

1. The State Represented by
The Sub-Inspector of Police,
Kaliyakavilai Police Station,
Kanyakumari District.
(Crime No.698 of 2016)

2. Dhana Singh

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.365 of 2016 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 S.T.C.No.365 of 2016 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 petitioners 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 petitioners would pray that the presence of the petitioners may be dispensed with before the trial Court.



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 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.

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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 petitioners shall appear before the Court in the event if their presence is insisted by the trial Judge for the purpose of identification. If the petitioners adopts 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 **JT 2001(4) SC 319**.

6. This Criminal Original Petition is dismissed as withdrawn. Consequently, CrI.MP(MD)No.9459 of 2018 is ordered and connected miscellaneous petitions is closed.

Sd/-
Assistant Registrar (Writs)

/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.

+ 1 CC TO Mr.G.V.VAIRAM SANTHOSH, ADVOCATE IN SR No. 96154

DAS

TE/BK/SAR-2 : 07/12/2018 : 2P/6C