



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P. (MD) .No.20948 of 2018

and
Crl.MP. (MD) .Nos.9689 and 9690 of 2018

Kovil Mani

... Petitioner/Sole Accused

Vs.

1. The State Represented by
The Inspector of Police,
Prohibition Enforcement Wing,
Tuticorin, Tuticorin District.
Crime No.67 of 2014

... Respondent/Complainant

2.Vadamalaimuthu

...2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records in connection with the C.C.No.151 of 2014, pending on the file of the learned Judicial Magistrate, Vilathikulam, Tuticorin District and quash the same as illegal and devoid of merits.

For Petitioner : Mr.S.Ramakrishnan

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

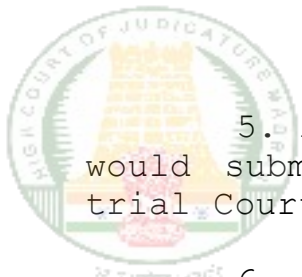
O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.151 of 2014, pending on the file of the learned Judicial Magistrate, Vilathikulam, Tuticorin District.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

3. In the considered view of this Court, the grounds raised by the petitioner is 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.151 of 2014, 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 petitioner would submitted that the presence of the petitioner before the trial Court may be dispensed with.

6. Accepting the said submission, the presence of the petitioner 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 Cr.P.C. and passing of judgment.

7. 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 when he examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court, in the event of their presence is insisted by the trial Judge for the purpose of identification. If the petitioner adopt any dilatory tactics, it is open to the trial court to insist for their 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 **2001 (4) SCC 667**.

8. In view of the above, this Criminal Original Petition is closed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Judicial Magistrate,
Vilathikulam, Tuticorin District.
2. The Inspector of Police,
Prohibition Enforcement Wing,
Tuticorin, Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 cc To Mr.S.Ramakrishnan, ADVOCATE IN SR NO.97135

sjj

MK/KK/SV/SAR 3/31.12.2018/2P/5C

Cr1.O.P.(MD).No.20948 of 2018
and

Cr1.MP.(MD).Nos.9689 and 9690 of 2018
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