



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

CrI.O.P.(MD).No.21216 of 2018

and

CrI.M.P(MD) No 9803 of 2018

S.Adhisivan

... Petitioner/Accused No.21

Vs.

1. The State Rep. by
The Inspector of Police
Palayanoor Police Station
Sivagangai
Sivagangai District
(Crime No. 53 of 2015)

...Respondent/Complainant

2. Karuppaiah

..Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in pursuant to the private complaint in C.C.No.167 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, Sivagangai District and quash the same.

For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.R.Anandharaj

No.1

Additional Public Prosecutor

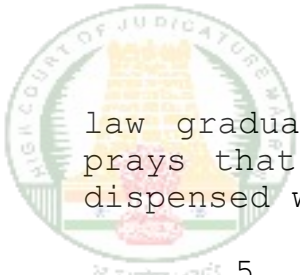
O R D E R

This petition is filed to quash the proceedings in C.C.No.167 of 2016 on the file of the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, Sivagangai 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 inaccordance with law.

4.Therefore, there is no merit in this petition. Hence this Criminal Original Petition is dismissed. At this juncture, the learned counsel for the petitioner would submit that petitioner is a



law graduate and due to this case, he is unable to enroll and prays that the presence of the petitioner before the court may be dispensed with.

5. Though the petitioner has not sought for any prayer for dispensing with his personal appearance, in my view, an order of dispensing with their personal appearance can be granted to meet the ends of justice. Accepting the said submission, the presence of the petitioner herein before the trial Court shall be dispensed with on condition that he shall be present for receiving charges sheet, for initial questioning and for answering charges, at the time of questioning under Section 313 of Cr.P.C and passing of judgment.

6. The petitioner is further directed to give an undertaking in the form of affidavit that the counsel representing him will cross examine the respondent and complainant and her 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 mediation. If the petitioner adopt 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 (2001)4 SCC 667.

7. In the result the Criminal Original Petition is dismissed on the above terms. Further, since the Case is of the year 2016, the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, Sivagangai District is directed to complete the proceedings as expeditiously as possible preferably within three months from the date of receipt of a copy of this order. The above directions given by this Court shall be strictly complied with. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Additional District Munsif cum Judicial Magistrate,
Manamadurai, Sivagangai District

2. The Inspector of Police
Palayanoor Police Station
Sivagangai, Sivagangai District



3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

• 1 CC TO Mr.G.Thalaimutharasu , ADVOCATE IN SR No.97790.

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