



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.07.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl OP(MD)No.5623 of 2011

and

MP(MD)No.1 of 2011

P.Marichamy

... Petitioner /Accused No.1

Vs.

1. The State rep.through
the Sub-Inspector of Police,
C.C.I.W., C.I.D.,
Virudhunagar (Cr.No.5 of 2005).

2. The Deputy Registrar of Co-op.Societies,
Srivilliputhur. ... Respondents/Complainants

Prayer : This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.399 of 2006 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the proceedings so far as the petitioner/accused-I is concerned.

For Petitioner : Mr.Kanagarajan

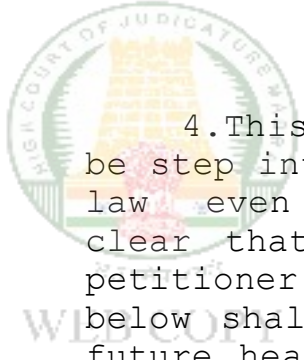
For Respondents : Mr.A.Robinson,
Government Advocate (crl side)

ORDER

The petitioner seeks quashing of the impugned proceedings in C.C.No.399 of 2006 on the file of the learned Judicial Magistrate No.II, Virudhunagar.

2.When the matter was taken up for final hearing, the learned Government Advocate (Crl.Side) submitted that the trial has already commenced. This Court is of the view that when the trial has substantially progressed, this Court would not be justified in invoking its inherent powers to quash the impugned proceedings. That is why this Court is not inclined to go into the merits of the matter.

3.The learned counsel for the petitioner pointed out that in this case two audit reports have been filed in respect of the same year and one of the report demonstrates the innocence of the petitioner.



4.This Court is of the view that the petitioner can very well be step into the witness box and let in evidence. It is settled law even an accused is also a competent witness. It is made clear that all the contentions and defences available to the petitioner are left open. It is also made clear that the court below shall not insist that the petitioner should appear on all future hearings. The petitioner shall not be called upon to be personally present except to answer the charges and at the time of examination under Section 313 of Cr.Pc and at the time of pronouncement of judgement. On all other occasions, the petitioner can be represented through his counsel.

5.With this relief of dispensing with the personal appearance of the petitioner, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Virudhunagar.
2. The Sub-Inspector of Police,
C.C.I.W., C.I.D.,
Virudhunagar in Cr.No.5 of 2005.
3. The Deputy Registrar of Co-op.Societies,
Srivilliputhur.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High court,
Madurai.

+1cc to Mr.S.Kanagarajan, Advocate Sr.No.73293

SKM

VB/SKN/RSK/SAR4/31.07.2018/2P/6C

**Cr1 OP(MD)No.5623 of 2011
and
MP(MD)No.1 of 2011
16.07.2018**