

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 20.08.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.11727 of 2017

1. J.Jeyaprathap Singh
 2. M.Balasaravanan
 3. D.Ashok Kumar
 4. T.Thinagara Raj
 5. K.Sebastian Gnanadurai
 6. J.Aron Selvin
 7. G.Ponraj Arputhamani
- .. Petitioners/Accused
Nos.6,7,8,10,13,16 & 18

Vs.

1. State represented by
The Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
Dharmapuri.
(Cr.No. 02/AC/2009) ..1st Respondent/Complainant
2. G.V.Kirushnaa Rajan ..2nd Respondent/Defacto
Complainant

(2nd respondent did not give any complaint. He registered the FIR as instructed by his superiors. 1st respondent will represent the case of 2nd respondent. Hence 2nd respondent is given up)

Prayer:- This Petition filed under section 482 Cr.P.C., to call for the records in Special C.C.No.6 of 2012 on the file of the Special Judge/Chief Judicial Magistrate, Dharmapuri pertaining to the impugned Charge Sheet filed by the 1st respondent in Crime No.2/AC/2009 and quash the same in so far as the petitioners/Accused Nos.6,7,8,10,13,16 & 18 are concerned.

For Petitioners : Mrs.Hema Sampath,
Senior Counsel
For M/s.R.Meenal
For R-1 : Mr.K.Prabakar,
Additional Public Prosecutor

ORDER

The above petition has been filed seeking to call for the records in Special C.C.No.6 of 2012, on the file of the learned Special Judge/Chief Judicial Magistrate, Dharmapuri, pertaining to the impugned Charge Sheet filed by the 1st respondent in Crime

No.2/AC/2009 and to quash the same in so far as the petitioners/Accused Nos.6,7,8,10,13,16 & 18 are concerned.

2. When the matter is taken up today, Mrs.Hema Sampath, the learned Senior Counsel assisted by Mrs.R.Meenal, learned counsel appearing for the petitioners would submit that no criminality has been made out against the petitioners in the case and thereby, the entire proceedings is an abuse of process of law which needs to be quashed.

3. The learned Additional Public Prosecutor would submit that charges have been framed and trial had commenced and four witnesses have been examined so far.

4. This Court finds that the ground raised by the petitioners are factual in nature which needs to be decided at the time of trial by examination of witnesses. The ground raised by the petitioner can be agitated before the trial Court at the appropriate stage.

5. At this juncture, the learned Senior Counsel would pray that the petitioners are working as a Secondary Grade Teachers in various schools and that their appearance before the Trial Court may be dispensed with.

6. Taking into consideration, the submission made by the learned Senior counsel, the presence of the petitioners before the trial court is dispensed with, however, the petitioners shall appear at the time of questioning u/s.313 Cr.P.C. and at the time of judgment.

7. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and the learned 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 progress of trial or for the purpose of identification. If the petitioners adopts any dilatory tactics, it is open to the Trial Court to insist for his 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 (2001)4 SCC 667.

8. This Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

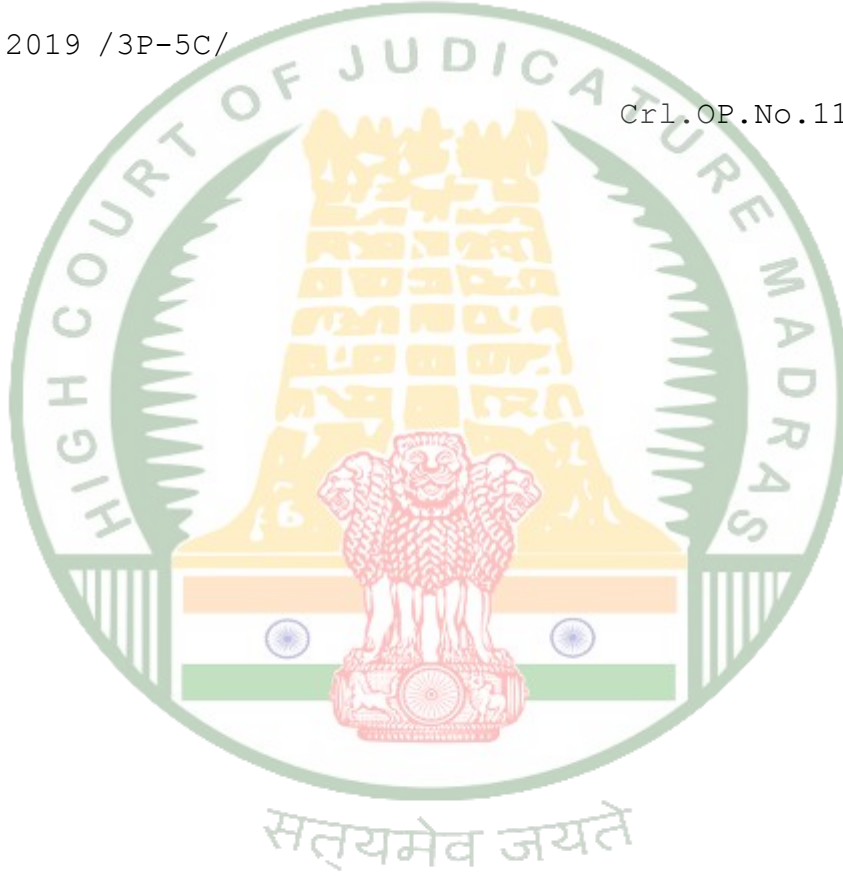
To:

1. The Special Judge/Chief Judicial Magistrate,
Dharmapuri.
2. The Deputy Superintendent of Police,
Vigilance and Anti-Corruption, Dharmapuri.
3. The Public Prosecutor, High Court, Chennai.

+1cc to M/s.R.Meenal, Advocate SR.No.71049

AKM/24.09.2019 /3P-5C/

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