



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

**Crl.O.P. (MD) Nos.4421, 4424, 4516 & 11701, of 2014
and
M.P. (MD) Nos.1 & 2 of 2014 (in all Crl.O.Ps.)**

Balakrishnan ... Petitioner in all Crl.O.Ps.
vs.

Kezhson ... Respondent in Crl.O.P.
(MD) No.4421 of 2014

Somu ... Respondent in Crl.O.P.
(MD) No.4424 of 2014

Prabhudhas ... Respondent in Crl.O.P.
(MD) No.4516 of 2014

P.Mahin ... Respondent in Crl.O.P.
(MD) No.11701 of 2014

PRAYER (in Crl.O.P. (MD) No.4421 of 2014: Petition is filed under Section 482 Cr.P.C., to call for the records relating to the Private Complaint in C.C.No.70 of 2013 on the file of Judicial Magistrate Fast Track Court (Magisterial Level) No.I, Nagercoil and quash the same as illegal.

PRAYER (in Crl.O.P. (MD) No.4424 of 2014: Petition is filed under Section 482 Cr.P.C., to call for the records relating to the Private Complaint in C.C.No.397 of 2013 on the file of Judicial Magistrate Fast Track Court (Magisterial Level) No.I, Nagercoil and quash the same as illegal.

PRAYER (in Crl.O.P. (MD) No.4516 of 2014: Petition is filed under Section 482 Cr.P.C., to call for the records relating to the Private Complaint in S.T.C.No.17 of 2013 on the file of Judicial Magistrate Fast Track Court (Magisterial Level) No.I, Nagercoil and quash the same as illegal.

<https://hcservices.courts.gov.in/hcservices/>
PRAYER (in Crl.O.P. (MD) No.11701 of 2014: Petition is filed under Section 482 Cr.P.C., to call for the records relating to the Private



Complaint in S.T.C.No.66 of 2014 on the file of Judicial Magistrate Fast Track Court (Magisterial Level) No.I, Nagercoil and quash the same as illegal.

For Petitioner : Mr.Ajmal Khan, Senior Counsel
(in all CrI.O.Ps.) for M/s.Ajmal Associates

For Respondent : Mr.G.V.Vairam Santhosh
(in all CrI.O.Ps.)

C O M M O N O R D E R

When this Court was about to dismiss the Criminal Original Petitions on merits, the learned counsel appearing for the petitioner sought permission of this Court to withdraw the same with liberty to raise all the points before the Trial Court and he has made an endorsement to that effect.

2. In view of the above, all these Criminal Original Petitions are dismissed as withdrawn with liberty to the petitioner to raise all the points before the Trial Court, after questioning under Section 251 Cr.P.C., since there are *prima facie* materials for questioning him.

3. At this juncture, learned counsel appearing for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

4. Accepting the submission, the petitioner is directed to appear before the Trial Court, within a period of four weeks from the date of receipt of a copy of this order and file an application for bail under Section 436 Cr.P.C. individually in all the four cases. On such application being filed, the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties (common sureties). The petitioner shall appear before the Trial Court at the time of questioning, under Sections 251 and 313 Cr.P.C. and on the date of Judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses in his absence on the day he is examined in chief without adopting dilatory tactics, as held by the Honourable Supreme Court in **Vinod Kumar vs. State of Punjab**, reported in **2015 (3) SCC 220**, the Trial Court may liberally consider and entertain the same. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon his presence. If the petitioner adopts dilatory tactics, he can be remanded to custody, under Section 309 Cr.P.C., as laid down by the Hon'ble Supreme Court in



State of U.P. vs. Shambhu Nath Singh, reported in **2001 (4) SCC 667**.
Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar(CS)

To:

The Judicial Magistrate No.I,
(Magisterial Level)
Fast Track Court, Nagercoil.

+1cc to MR.PUHAZH GANDHI, Advocate in SR.NO.56626
+1cc to M/S.AJMAL ASSOCIATES, in SR.NO.56217

**Crl.O.P. (MD) Nos.4421, 4424, 4516 &
11701, of 2014 and
M.P. (MD) Nos.1 & 2 of 2014
(in all Crl.O.Ps.)**

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MS (27.04.2019) 3P 4C