



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.6094 of 2014

and

M.P.(MD) No.1 of 2014

Askar Ali

... Petitioner / A1

vs.

1.The State rep., by:

The Inspector of Police

Thevaram Police Station

Theni District

(Crime No.174 of 2013)

... 1st Respondent / Complainant

2.Anwar Rajan

... 2nd Respondent / *De facto* Complainant

PRAYER: Petition is filed under Section 482 Cr.P.C., to call for the records relating to the charge sheet in C.C.No.345 of 2013 on the file of the District Munsiff cum Judicial Magistrate Court, Bodinayakanur and quash the same as illegal in so far as the petitioner is concerned.

For Petitioner

: Mr.J.Karthikeyan

For Respondents

: Mr.S.Chandrasekaran
Additional Public Prosecutor for R1
Mr.K.Sabur Khan for R2

O R D E R

When this Court was about to dismiss the Criminal Original Petition on merits, the learned counsel appearing for the petitioner sought permission of this Court to withdraw the same and he has also made an endorsement to that effect.

2. In view of the above, this Criminal Original Petition is dismissed as withdrawn, with liberty to raise all the points before the Trial Court, after the charges are framed, since there are *prima facie* materials to frame charges against the petitioner.

3. At this juncture, the learned counsel for the petitioner submitted that the petitioner is a practicing Advocate and



therefore, his presence before the Trial Court may be dispensed with.

4. It is reported that the petitioner has obtained a certified copy of the Charge Sheet and other records from the Trial Court and therefore, he may not be entitled to copies under Section 207 Cr.P.C.

5. Accepting the submission of the learned counsel for the petitioner, this Court directs the petitioner to appear before the Trial Court, within a period of four weeks from the date of receipt of a copy of this Order and execute a fresh bond, under Section 88 Cr.P.C., for Rs.10,000/- (Rupees ten thousand only) without sureties. The petitioner shall appear before the Trial Court at the time of framing charges, questioning under Section 313 Cr.P.C. and on the day 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 they are examined in chief without adopting dilatory tactics, as held by the 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**. If the petitioner absconds, a fresh F.I.R. can be registered against the petitioner under Section 229-A I.P.C.

6. The Trial Court is directed to expeditiously complete the trial. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Munsiff-cum-
Judicial Magistrate,

<https://hcservices.ecourts.gov.in/hcservices/>
Bodinayakanur.



2.The Inspector of Police,
Thevaram Police Station,
Theni District.

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

+1 cc to Mr.R.Gandhi , Advocate SR.No.56518

+1 cc to Mr.K.Sabur Khan , Advocate SR.No.57085

KRK

Crl.O.P. (MD) No.6094 of 2014
and
M.P. (MD) No.1 of 2014
25.03.2019

_KM/(09.04.2019) 3P 6C