



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.12.2019

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

Crl.O.P. (MD) No.21675 of 2018

and

Crl.M.P. (MD) Nos.10046 and 10047 of 2018

1.Periyasamy
2.Senthilkumar
3.Suresh
4.Sivakuma

: Petitioners/Accused 1 to 4

Vs.

1.The State rep.
Inspector of Police,
Sivakasi East Police Station
Virudhunagar District,
(FIR No.364/2014)

2.Pradeep Sankar : Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to SC No. 137 of 2015 on the file of the learned Principal Sessions District Court, Virudhunagar District at Srivilliputhur and quash the same.

For Petitioner : Mr.R.Murugappan
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in SC No. 137 of 2015 on the file of the Principal District and Sessions Judge, Virudhunagar District.

2.The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case with oblique motive. The respondent police conducted the investigation in a mechanical manner and filed the charge sheet as against the petitioners and hence, sought for quashment of the proceedings.

3.The learned Additional Public Prosecutor submitted that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioners has



to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced and the case has been posted for examination of witnesses on 26.12.2019 and hence, he prayed for dismissal of the petition.

4. This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

6. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

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 that the Counsel representing them will cross examine the prosecution witnesses on the same 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 their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their 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. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition in CrI.M.P(MD) No.10046 of 2018 stands closed and CrI.M.P(MD) No.10047 of 2018 is ordered.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

skn



To

1. The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.

2. The Inspector of Police,
Sivakasi East Police Station
Virudhunagar District.

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

+1 CC to M/s.R.MUREUGAPPAN, Advocate (SR-104804[F] dated 13/12/2019
)

CrI.O.P. (MD) No.21675 of 2018
and
CrI.M.P. (MD) Nos.10046 and 10047 of 2018
12.12.2019

GKG (CO)
TR (23.01.2020) 3P 5C