



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD) .Nos.3229 & 3230 of 2017

and

Crl.M.P. (MD) Nos.2451, 2452, 2449 & 2450 of 2017

T.Usharani ... Petitioner/Sole Accused
in both the cases
vs.
Kamalabai ... Respondent/ Complainant in
Crl.O.P. (MD) No.3229 of 2017
C.Robert ... Respondent/ Complainant in
Crl.O.P. (MD) No.3230 of 2017

PRAYER in Crl.O.P. (MD) No.3229 of 2017: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records from the Judicial Magistrate No.2, Kuzhithurai in S.T.C.No.47 of 2016 and quash the same as illegal.

PRAYER in Crl.O.P. (MD) No.3230 of 2017: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records from the Judicial Magistrate, Eraniel in S.T.C.No.207 of 2016 and quash the same as illegal.

In both the cases:

For Petitioner : Mr.J.Jeyakumaran
For Respondent : Mr.T.Lajapathi Roy

C O M M O N O R D E R

Since the issue involved in both the cases are one and the same, they are disposed of by this common order.

2. These petitions have been filed to call for the records in S.T.C.Nos.47 & 207 of 2016, pending on the file of the learned Judicial Magistrate No.2, Kuzhithurai and learned Judicial Magistrate, Eraniel respectively in Crime Nos.345 and 373 of 2016 respectively on the file of Thiruvattar Police Station, Kanyakumari District.

3. The various grounds raised by the learned counsel for the petitioner are all factual in nature and the same requires appreciation of evidence in the course of the trial and the said exercise cannot be done by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C. It is left open to the



petitioner to raise all the grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law. This Court does not want to interfere with the proceedings at this stage.

4. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

4. This Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in S.T.C.Nos.47 & 207 of 2016, on the file of the learned Judicial Magistrate No.2, Kuzhithurai and learned Judicial Magistrate, Eraniel respectively, within a period of four months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.2,
Kuzhithurai.

2. The Judicial Magistrate, Eraniel

+2 CC to M/s.T.LAJAPTHI ROY, Advocate (SR-92766,92765[F] dated 18/10/2019)

+2 CC to M/s.J.JEYAKUMARAN, Advocate (SR-92921,92920[F] dated 18/10/2019)

Common Order made in
Crl.O.P. (MD) .Nos. 3229
& 3230 of 2017

Dated:
17.10.2019

KM/ (04.11.2019) 2P 7C