

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NOS.3730, 3735 & 5540 OF 2017

AND

CRL.M.P.NOS.2756, 2764, 4055, 4056, 4135, 4272,
5261 & 5262 OF 2017

AND

CRL.M.P.NOS.18761, 18764 & 18766 OF 2019

U.Yassin

... Petitioner/Accused
in Crl.O.P.No.3730 of 2017

1.Prabhavathy

2.Indra

3.Janaki

4.Malathi

5.M.G.Ramamoorthy

6.Sampoornammal

7.Kamaraj

... Petitioners/Accused
in Crl.O.P.No.3735 of 2017

1.M.V.Sounder Rajan

2.M.V.Suderson

... Petitioners/Accused
in Crl.O.P.No.5540 of 2017

Vs.

1.The Inspector of Police,
F-5, Marakkanam Police Station,
Villupuram District.

2.E.Jegannathan

सत्यमेव जयते

... Respondents/Complainants
in all petitions

(R2 is impleaded as per order in Crl.M.P.Nos.18422 of 2019,
18421 of 2019 & 18419 of 2019 in Crl.O.P.No.3730 of 2017,
3735 of 2017 & 5540 of 2017 respectively dated 11.12.2019.

Common Prayer:

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in in C.C.No.255 of 2016 on the file of
the Judicial Magistrate Court No.II, Tindivanam and quash the
same.

For Petitioners
in all petitions : Mr.Sounder Vijay Arul Ram

For R1
in all petitions : Mrs.P.Kritika Kamal
Government Advocate (Crl.Side)

For R2
in all petitions : Mr.Meiyappan Mohan
for M/s.P.Wilson Associates

COMMON ORDER

When this Court was about to dismiss these criminal original petition on merits, the learned counsel for the petitioners sought permission of this Court to withdraw these petitions and also made an endorsement to that effect.

2. In view of the submission made by the learned counsel for the petitioners and the endorsement made, these criminal original petitions are dismissed as withdrawn.

3. However, the learned counsel for the petitioners prayed that the presence of the petitioners before the trial Court may be dispensed with. The learned counsel for the de facto complainant submitted that the de facto complainant is aged about seventy years and therefore, before his lifetime, the trial may be completed.

4. Accepting their submissions, this Court issues the following directions:

- i. The petitioners shall appear before the trial Court at 10.30 a.m. on 14.12.2020 and execute a bond for a sum of Rs.10,000/- each, under Section 88 Cr.P.C. without sureties;
- ii. The petitioners shall affix their photographs in the surety bond;
- iii. The petitioners must be present before the trial Court on the date of framing of charges, since there are more than prima facie materials to frame charges against them;

- iv. After framing of charges and questioning, the petitioners shall file an affidavit stating that their Advocate, engaged by them, will conduct their case in their absence and he will cross-examine the witnesses in their absence and will not adopt any dilatory tactics as held by the Supreme Court in Vinod Kumar vs. State of Punjab¹;
- v. The petitioners shall also state in the affidavit that they will not dispute their identity;
- vi. On such affidavit being filed, the presence of the petitioners before the trial Court will stand dispensed with on their Advocates filing petition under Section 317 Cr.P.C.;
- vii. However, the petitioners shall appear before the trial Court on the date of questioning on charges, questioning under Section 313 Cr.P.C. and also on the date of the judgment;
- viii. That apart, whenever the presence of the petitioners is required, the trial Court may inform the Advocate appointed by them and the petitioners shall appear on the date so fixed by the trial Court;
- ix. If the petitioners adopts any dilatory tactics, the trial Court shall remand them into judicial custody as held by the Supreme Court in State of Uttar Pradesh v. Shambhu Nath Singh²;
- x. If any of the petitioners abscond, a fresh FIR can be registered under Section 229A IPC; and
- xi. The trial Court shall complete the trial within a period of six months from the date of framing of charges.

¹ (2015) 3 SCC 220

² JT 2001 (4) SC 319

In view of the above Crl.M.P.Nos.4055, 4056 & 4272 of 2017 are ordered and other connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate No.II,
Tindivanam.
2. Do Through The Chief Judicial Magistrate,
Villupuram.
3. The Inspector of Police,
F-5, Marakkanam Police Station,
Villupuram District.
4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

+1cc to M/s.P.Wilson Associates, Advocate in sr.no.37837

Crl.O.P.Nos.3730, 3735 & 5540 of 2017

AJS (CO)
CS/07/12/2020

सत्यमेव जयते
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