



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2020

CORAM:

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

Crl.O.P.(MD)No.1083 of 2020

and

Crl.M.P.(MD)No. 702 of 2020

1. Ajish @ Ajeesh Nath
2. Gopi
3. Santhkumary @ Santha
4. Ajainath

: Petitioners/Accused No.1 to 4

Vs.

1. The State rep
The Inspector of Police,
Nithravilai Police Station
Kanyakumari District.
(Crime No.187 of 2018)

: 1st Respondent/Complainant

2. Anju

: 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.243 of 2019 on the file of the Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District and quash the same.

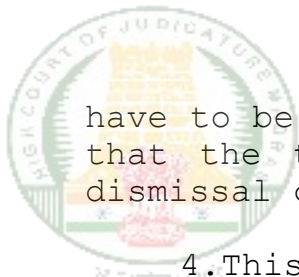
For Petitioners : Mr.R.J.Karthick
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.243 of 2019 on the file of the Judicial Magistrate No.II, Kuzhithurai, Kanyakumari 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



have to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced 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 petitioners before the trial Court shall be dispensed with on condition that they 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 dismissed. Consequently, connected Miscellaneous Petition is also closed. Further the trial court is directed to complete the trial proceedings within a period of four months from 06.02.2020.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate No.II,
Kuzhithurai, Kanyakumari District
2. The Inspector of Police,
Nithravilai Police Station
Kanyakumari District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.J.KARTHIK, Advocate (SR-4635[F] dated 04/02/2020)

Crl.O.P. (MD)No.1083 of 2020
and
Crl.M.P. (MD)No. 702 of 2020
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KK/SAR/05.02.2020/3P-5C/