



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2020

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P(MD).No. 1273 of 2020

and Crl.M.P.(MD) Nos. 560 & 561 of 2020

WEB COPY

1. Venkatesan

2. Subhasini

... Petitioners/A1 & A2

Vs.

K.S. Ravichandran

... Respondent/complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to C.C.No. 442 of 2016 on the file of the learned Judicial Magistrate, Rajapalayam and quash the same as illegal.

For Petitioners : Mr. T.Veerakumar

O R D E R

This Criminal Original petition has been filed to quash the proceedings in C.C.NO.442 of 2016 on the file of the learned Judicial Magistrate, Rajapalayam.

2. The learned counsel for the petitioners would submit that though, earlier Criminal Original Petition for quashing was dismissed, new materials have surfaced now which would disprove the case of the prosecution and thereby, the present quash petition has been filed placing reliance on the subsequent documents.

3. The learned Additional Public Prosecutor submitted that even taking into consideration the new materials there are other 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. He would submit that the earlier quash petition in Crl.OP.No.3010 of 2019 was dismissed on 17.10.2019. Further, he would submit that the trial has also 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 case of the prosecution is based on documentary evidence and thereby the personal appearance of the petitioners before the trial Court, may be dispensed with subject to conditions.



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. However, the learned Judicial Magistrate, Rajapalayam is directed to complete the trial, within a period of Six Months, from the date of receipt of a copy of the order. Consequently, Crl.M.P.(MD) No.561 of 2020 stands ordered and Crl.M.P.(MD) No.560 of 2020 stands closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Judicial Magistrate, Rajapalayam

Crl.O.P(MD) No.1273 of 2020

27.01.2020

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