



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D.JAGADISH CHANDIRA**
Crl.O.P.(MD)No.1669 of 2020
and
Crl.M.P.(MD)Nos.784 & 785 of 2020

S.Mohan ... Petitioner

Vs.

1.State represented by
The Inspector of Police,
Karaikudi North Police Station,
Karaikudi,
Sivagangai District. ... 1st Respondent/Complainant

2.S.P.Vellaichamy ... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records relating to C.C.No.171 of 2019 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi and quash the same.

For Petitioner : Mr.S.Sankar
For R-1 : Mr.S.Chandrasekar
Additional Public Prosecutor
For R-2 : Mr.Joel Paul Antony

ORDER

This petition has been filed to quash the proceedings in C.C.No.171 of 2019 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi.

2.The learned counsel appearing for the petitioner would submit that civil dispute has been projected as criminal case and that there is no material against the petitioner.

3.The learned Additional Public Prosecutor appearing for the respondent police would submit that there are sufficient materials against the petitioner and that charges were framed against the accused and case has been posted on 04.03.2020.

4.In the considered view of this Court, the grounds raised by the petitioner are purely factual in nature. The said grounds can be raised only before the Court below, in the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law.

5.Therefore, there is no merit in this petition. Hence, this Criminal Original Petition is dismissed.



6. At this juncture, the learned Counsel for the petitioner submitted that the presence of the petitioner before the Trial Court may be dispensed with.

7. Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present for receiving charge sheet, for initial questioning and for answering the charges, at the time of questioning under Section 313 of Cr.P.C., and passing judgment.

8. The petitioner is further directed to give an undertaking in the form of affidavit that the Counsel representing him will cross examine the prosecution witnesses on the day they are examined in chief. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event if his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667**. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

gns
To

1. The Principal District Munsif cum Judicial Magistrate,
Karaikudi.

2. The Inspector of Police,
Karaikudi North Police Station,
Karaikudi, Sivagangai District.

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

+1 CC to M/s.P.ARUN JAYATRAM, Advocate (SR-8619[F])

+1 CC to M/s.A.JOEL PAUL ANTONY, Advocate (SR-9688[F])

Cr1.O.P. (MD) No.1669 of 2020