



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2020

CORAM:

WEB COPY

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

Crl.O.P.(MD).No.3020 of 2020

and

Crl.M.P.(MD).Nos.1591 and 1592 of 2020

1.Asseem
2.Riyas
3.Mursy
4.Ferosekhan
5.Sameem
6.Sarmilkhan
7.Asarutheen

..Petitioners/Accused Nos.1 to 7

Vs.

1.The Sub Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
(Crime No.165 of 2017)

2.Mohamedvasimkhan

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to the proceedings in S.T.C.No.716 of 2019 pending on the file of the Judicial Magistrate No.II, Padmanabhapuram and may quash the same.

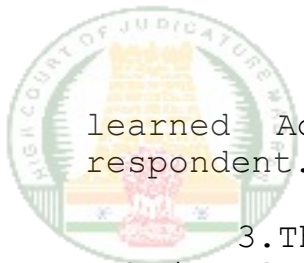
For Petitioners	: Mr.K.P.Narayanakumar
For 1 st Respondent	: Mr.S.Chandrasekar
	Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.716 of 2019 pending on the file of the Judicial Magistrate No.II, Padmanabhapuram as against the petitioners herein.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard learned counsel appearing for the petitioners and the



learned Additional Public Prosecutor appearing for the first respondent.

3.The learned counsel appearing for the petitioners would submit that in order to wreck vengeance, a false case has been foisted against the petitioners. The first 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.

4.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. 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 his 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 is dismissed. However, a direction is issued to the Judicial Magistrate No.II, Padmanabhapuram to complete the trial in S.T.C.No.716 of 2019 and to dispose of the same on merits and in accordance with law as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order. Consequently,



connected Miscellaneous Petition in Crl.M.P(MD) No.1591 of 2020 stands closed and Crl.M.P(MD) No.1592 of 2020 stands ordered.

Sd/-

Assistant Registrar (CS II)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To:

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

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-7878[F] dated 24/02/2020)

Crl.O.P.(MD) .No.3020 of 2020

and

Crl.M.P.(MD) .Nos.1591 and 1592 of 2020

KK/03.03.2020/3P-5C

—