



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2020

CORAM:

WEB COPY

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

CrI.O.P.(MD).No.3068 of 2020

and

CrI.M.P.(MD).Nos.1605 and 1606 of 2020

1.Venkatesh
2.Kutralam @ Kutralam Pillai
3.Karthick @ Aiyappan
4.Bagavathyappan
5.Nanjil Siva @ Siva
6.Sabari @ M.R.Boothalingam
7.Ramesh @ Boothalingam
8.Moorthy @ Shanmugapillai ..Petitioners

Vs.

1.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.
(in Crime No.36 of 2019)

2.Muthu .. Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of the Charge Sheet in C.C.No.305 of 2019 on the file of the Judicial Magistrate Court-III, Nagercoil and quash the same.

For Petitioners : Mr.D.Nallathambi
For 1st Respondent : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

This petition has been filed to quash the proceedings in C.C.No.305 of 2019 on the file of the Judicial Magistrate Court-III, Nagercoil.

2.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case with oblique motive. 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.

<https://hcservices.ecourts.gov.in/hcservices/>
3.The learned Additional Public prosecutor appearing for the first respondent police would submit that totally there are eight accused and nine witnesses in this case. He would further submit



that now the case stands posted on 27.02.2020 for framing of charges.

4. Having gone through the records, this Court is of the opinion 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 against the petitioners has to be gone into a full-fledged trial.

5. 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.

6. 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.

7. 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.

8. 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**.

9. Accordingly, this Criminal Original Petition dismissed. However, the Judicial Magistrate Court No.III, Nagercoil, is directed to complete the trial in C.C.No.305 of 2019 within a period of four months from 27.02.2020. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.1605 of 2020 stands are closed and Crl.M.P(MD) No.1606 of 2020 stands ordered.

Sd/-

Assistant Registrar ()

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To:

- 1.The Judicial Magistrate Court-III,
Nagercoil.
- 2.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.D.NALLATHAMBI, Advocate (SR-7883[F] dated 24/02/2020)

Crl.O.P.(MD).No.3068 of 2020
and
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VB(09.03.2020) 3P 5C