



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2020

CORAM:

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

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Crl.O.P.(MD)No.1287 of 2019
and Crl.M.P.(MD)Nos.625 & 626 of 2019

V.P.Senapathy

... Petitioner/Accused No.12

Vs.

1.The Inspector of Police,
CBCID South, Dindigul,
(in Cr.No.1 of 2016)
Dindigul District.

...1st Respondent/Complainant

2.V.N.A.S.Chandran

... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records pertaining to the impugned charge sheet in C.C.No.187 of 2018 on the file of the learned Judicial Magistrate No.I, Dindigul, Dindigul District and quash the same as illegal.

For Petitioner

: Mr.A.Prasanna Rajadurai

For R-1

: Mr.S.Chandrasekar,
Additional Public Prosecutor.

For R-2

: Mr.V.Manikandan

O R D E R

This petition has been filed to quash the proceedings in C.C.No.187 of 2018 on the file of the learned Judicial Magistrate No.I, Dindigul, Dindigul District.

2.The learned counsel for the petitioner would submit that the petitioner is an Advocate and he has been falsely implicated in this case. He would further submit that a civil dispute has been converted as a criminal offence and a false complaint was given by the second respondent.

3.The learned counsel for the second respondent would submit that there are sufficient materials available as against the petitioner for having committed offence and he would pray for



dismissal of this petition. He would further submit that the petitioner also filed discharge petition and it is pending adjudication before the trial Court.

4. Heard the learned counsel on either side.

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5. 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.

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

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

8. 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.

9. The petitioner is further directed to give an undertaking in the form of affidavit that the Counsel representing them 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**. The learned Judicial Magistrate No.I, Dindigul, Dindigul District is directed to dispose of the discharge petition and take steps to complete the trial in C.C.No.187 of 2018 as expeditiously as possible. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.I,
Dindigul, Dindigul District.

2.The Inspector of Police,
CBCID South, Dindigul,
(in Cr.No.1 of 2016)
Dindigul District.

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

+1 CC to M/s.A.PRASANNA RAJADURAI, Advocate (SR-4610[F] dated
04/02/2020)

+1 CC to M/s.V.MANIKANDAN, Advocate (SR-4717[F] dated 04/02/2020)

Crl.O.P. (MD)No.1287 of 2019
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JMN(18.02.2020) 3P : 6C