



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.01.2020

CORAM:

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

Crl.O.P. (MD) No.7187 of 2018

and

Crl.M.P. (MD) Nos.3405 and 3406 of 2018

C.Chellaiah : Petitioner/Sole Accused
Vs.

P.Shivagnam : Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.385 of 2017 on the file of the Judicial Magistrate Court, Naththam and quash the same as against the petitioner.

For Petitioner : Mr.A.Ramesh
For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.385 of 2017 on the file of the Judicial Magistrate Court, Naththam.

2.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case with oblique motive. The respondent police conducted the investigation in a mechanical manner and filed the charge sheet as against the petitioner and hence, sought for quashment of the proceedings.

3.The learned Additional Public Prosecutor submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has 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 petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

6.Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present at the time for 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 petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same 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 his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial 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**.

8. Accordingly, this Criminal Original Petition dismissed. Consequently, connected Miscellaneous Petition in Crl.M.P(MD) No.3405 of 2018 stands closed and Crl.M.P(MD) No.3406 of 2018 stands ordered.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To
The Judicial Magistrate Court,
Naththam.

+1 CC to M/s.A.RAMESH, Advocate (SR-4029[F] dated 30/01/2020)

Crl.O.P.(MD)No.7187 of 2018 and
Crl.M.P.(MD)Nos.3405 and 3406 of 2018
28.01.2020

SMA/10/02/2020/2P/3C