



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2020

CORAM:

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

Crl.O.P. (MD)No.19111 of 2019

and

Crl.M.P. (MD)Nos.11236 and 11237 of 2019

WEB COPY

Prasanth : Petitioner/Sole Accused
Vs.

1.State Rep by the
The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin District.
(In Crime No.312 of 2017) : 1st Respondent/Complainant

2.Kani : 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in C.C.No.291 of 2018 on the file of the learned Judicial Magistrate No.II, Tuticorin, in so far as the petitioner herein and quash the same as illegal.

For Petitioner : Mr.V.Malaiyendran
For R1 : Mr.S.Chandrasekar
Additional Public Prosecutor
For R2 : Mr.S.Muniyandi

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.291 of 2018 on the file of the learned Judicial Magistrate No.II, Tuticorin.

2.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person 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, he 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. Further, he would submit that the trial has also been commenced and 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 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 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 dilatorious 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 Petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

dss

To

1. The Judicial Magistrate No.II,
Tuticorin.
2. The Inspector of Police,
Muthaiahpuram Police Station,
Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.V.MALAIYENDRAN, Advocate (SR-2481[F]dated 22/01/2020)

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Crl.M.P. (MD)Nos.11236 and 11237 of 2019
21.01.2020**

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