



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2021

CORAM:

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

Crl.O.P. (MD) No.12282 of 2021

and

Crl.M.P. (MD) Nos.6300 and 6301 of 2021

Gnanabalan

: Petitioner

Vs.

1.The Inspector of Police
Thiruppuvanam Police Station
Thiruppuvanam, Sivagangai District

2. Ramalingam : Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the proceedings in C.C.No.55 of 2021 on the file of the District Munsif cum Judicial Magistrate, Thiruppuvanam, Sivagangai District with regard to the petitioner's concerned and quash the same against the petitioner.

For Petitioner
For R1

: Mr.G.Gomathi Sankar
: Mr.K.Sanjai Gandhi
Government Advocate(crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.55 of 2021 on the file of the District Munsif cum Judicial Magistrate, Thiruppuvanam, Sivagangai District.

2.The learned counsel appearing for the petitioner would submit that the complaint is a motivated complaint. Since the petitioner is a government servant due to previous enmity a false case has been foisted against the petitioner and the ingredients of the offence are not made out against the petitioner, hence, sought for quashment of the proceedings.

3.The learned Government Advocate (Crl.Side) 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 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 CrI. M.P(MD) No.6300 of 2021 stands closed and CrI.M.P(MD) No.6301 of 2021 is ordered.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The District Munsif cum Judicial Magistrate,
Thiruppuvanam, Sivagangai District

2. The Inspector of Police
Thiruppuvanam Police Station
Thiruppuvanam, Sivagangai District

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

+1 CC to MR.G.GOMATHI SANKAR, Advocate (SR-27547[F] dated
27/08/2021)

CrI.O.P. (MD) No.12282 of 2021
and

CrI.M.P. (MD) Nos.6300 and 6301 of 2020

26.08.2021