



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.18488 of 2021

and

Crl.M.P. (MD)Nos.10192 & 10193 of 2021

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Aejas Ahamed Ibrahim

... Petitioner / Accused No.84

Vs

1.The State rep. by
Inspector of Police
Eruvadi Police Station,
Tirunelveli District
(Crime No.173 of 2019).

... 1st Respondent/Complainant

2.S.Bharthipan
Sub Inspector of Police,
Moontadaipu Police Station,
Tirunelveli District.

...2nd Respondent / Defacto
complainant

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to call for the entire records pertaining to the case pending in C.C.No.35 of 2020 on the file of the Judicial Magistrate, Nanguneri and quash the same as against the petitioner concerned.

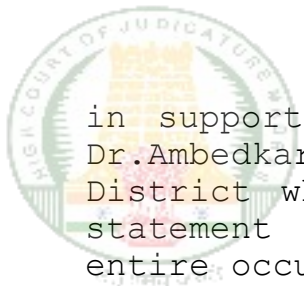
For Petitioner : Mr.R.Karunanidhi
For R1 : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent police.

2. The petitioner is figuring as Accused No.84 in C.C.No.35 of 2020 on the file of the Judicial Magistrate, Nanguneri. A very large number of persons have been arrayed as accused.

3. The specific contention of the petitioner's counsel is that on 16.09.2019, the petitioner was very much in Chennai. The occurrence had taken place in Eruvadi. Such a plea of alibi cannot be considered while exercising jurisdiction under Section 482 of Cr.P.C. Therefore, the petitioner is given liberty to file an application for discharge before the court below. Normally, in a discharge petition, defence documents are not entertained. As an exceptional case, the petitioner is permitted to file any document



in support of his plea that he was attending classes in Chennai Dr.Ambedkar Government Law College, Pattarai Perumbudur, Tiruvallur District when the occurrence took place. I must also record the statement of the learned Additional Public Prosecutor that the entire occurrence has been duly video graphed.

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4. The learned trial Magistrate may call upon the prosecution to play the video or the CCTV footage. If the petitioner could be identified in the crowd, obviously the discharge petition will be summarily dismissed. If the petitioner could not be identified or located in the crowd, then, the court below will be entitled to take note of the defence documents that may be filed by the petitioner herein. The petitioner's counsel states that he will file a discharge petition within a period of one week from the date of receipt of a copy of this order. The court below shall dispose of the same on merits and in accordance with law within a period of four weeks thereafter. All the contentions of the petitioner are left open.

5. This Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate, Nanguneri.

2.The Inspector of Police
Eruvadi Police Station,
Tirunelveli District

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

+1 CC to M/s.R. KARUNANIDHI, Advocate (SR-36122[F] dated 26/11/2021)
Crl.O.P(MD)No.18488 of 2021
25.11.2021

VR(CO)

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