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CRL.O.P.(MD)NO.18807 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.18807 of 2021 and

CRL.M.P.(MD)Nos.10427 & 10428 of 2021

1. Moses
2. Paul Charles @ Charles ... Petitioners / Accused 2 & 3

Vs.

State rep. By,

1. The Inspector of Police,
Kuruvikulam police station,
Kuruvikulam,
Tenkasi District.
(Crime No.298 of 2020) ... Respondent / Complainant
2. Ajith ... Respondent / Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in C.C.No.180 of 2021 on the file of the Judicial Magistrate, Sankarankovil in so far as the petitioners herein and quash the same as illegal.

For Petitioners : Mr.V.Selvakumar

For R-1 : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

* * *

O R D E R

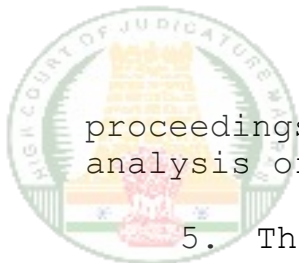
Heard the learned counsel on either side.

2. This criminal original petition has been filed for quashing the proceedings in C.C.No.180 of 2021 on the file of the Judicial Magistrate, Sankarankovil.

3. The petitioners' counsel reiterated all the contentions set out in the memorandum of grounds.

4. As rightly pointed out by the learned Additional Public Prosecutor, consideration of the aforesaid grounds would invoke embarking on a factual probe. The Hon'ble Supreme Court in a recent decision reported in AIR 2021 SC 1918 (Neeharika Infrastructure Pvt. Ltd., V. State of Maharashtra) has held that the criminal

<https://hcservices.ecourts.gov.in/hcservices/>



proceedings ought not to be scuttled by undertaking a factual analysis of the rival contentions.

5. Therefore, leaving open the petitioners' contentions and defences, this criminal original petition is dismissed. Taking note of facts and circumstances of this case, the personal appearance of the petitioners before the Court below is dispensed with. However, the petitioners have to appear before the Court below on the following three occasions:-

- i) To answer the charges,
- ii) at the time of examination under Section 313 of Cr.P.C. and
- iii) at the time of pronouncement of Judgment.

The petitioners also will have to appear when their presence is insisted upon by the trial Court and on all other occasions, the petitioners can be represented by their counsel. If the petitioners' counsel also fails to appear, the benefit of this order will stand vacated automatically. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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, Sankarankovil.
2. The Inspector of Police,
Kuruvikulam police station,
Kuruvikulam, Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD) No.18807 of 2021
30.11.2021

_RD(15.12.2021) 2P 4C