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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2723 of 2022
and
Crl.M.P.Nos.1263 & 1264 of 2022

M.Arun Kumar

...Petitioner

-Vs-

1.State of Tamil Nadu
Rep. by the Inspector of Police
District Crime Branch,
Kancheepuram.
(Crime No.64 of 2018)

2.N.Thenmozhi

..Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, praying to call for the records in C.C.No.186 of 2020 on the file of the learned Judicial Magistrate No.I, Kancheepuram and quash the same.

For Petitioner : Mr.S.Manuraj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petition has been filed to call for the records in C.C.No.186 of 2020 on the file of the learned Judicial Magistrate No.I, Kancheepuram.

2. The learned counsel for the petitioner would submit that the alleged impersonator of the property owner is unidentified till date, thereby the charge sheet itself is incomplete. Further, the allegation of the defacto complainant even if taken as whole do not make out any prima facie case against the petitioner herein, one of the co-accused has also passed away, thereby he would seek to quash the proceedings.

3. The learned Additional Public Prosecutor would submit that the final report has been filed and cognizance has been



taken by the Magistrate. However, on the direction of the Magistrate, further investigation has been ordered. The petitioner is the person who has produced the impersonator and had transferred the property.

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4. At this juncture, the learned counsel for the petitioner seeks permission of this Court to withdraw the quash petition and prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with.

5. Accepting the said submission, the presence of the petitioner, before the trial Court shall be dispensed with on condition that the petitioner 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 judgement and whenever insisted upon by the trial court.

6. 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 of their presence is insisted by the trial judge for the purpose of identification. If the petitioner adopt any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with in accordance with the judgement of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.

7. Accordingly, this Criminal Original Petition is dismissed as withdrawn. Consequently, connected Miscellaneous petition in CrI.M.P.No.1263 of 2020 stands closed and CrI.M.P.No.1264 of 2020 is partly allowed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

nr/tsh

To

1. The Judicial Magistrate No.1,
Kanchipuram.



2.The Inspector of Police
District Crime Branch,
Kancheepuram.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Manuraj, Advocate, S.R.No.8780

Cr1.O.P.No.2723 of 2022
and
Cr1.M.P.Nos.1263 & 1264 of 2022

PL(CO)
SB(25/02/2022)