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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2857 of 2022
and Crl.M.P.No.1300 of 2022

1. Periyannan

2. Ramesh

3. Vellaiyammal

4. Angamuthu

5. Asaikkannu

...Petitioners

Vs.

1.The Inspector of Police,
Thalaivasal Police Station,
Salem.

2.Palaniyammal

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records of the final report in C.C.No.227/2021 on the file of the Judicial Magistrate No.II, Attur and quash the same.

For Petitioners : Ms.S.Vinodha

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.227 of 2021 on the file of the Judicial Magistrate No.II, Attur.

2. Learned counsel appearing for the petitioners would submit that P.W.1 and his men wantonly and deliberately entered into the petitioners' land to bury the body of the deceased



Pichannan, which was questioned by the petitioners and thereby, false case has been registered against them. He would further submit that no prior permission was obtained from the Block Development Officer to bury the body in the Government land, which is a mandatory requirement.

3. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor would submit that it is the case where the petitioners prevented the defacto complainant from burying the body of the deceased Pichannan, who is the father of the defacto complainant/R2. He would further submit that the grounds raised by the petitioners are factual in nature and without any legal points, the proceedings cannot be quashed.

4. Heard the learned counsel and perused the materials available on record.

5. Having perused and examined the grounds raised by the petitioners, which are factual in nature, this Court is of the considered view that there is no legal points to quash.

6. At this juncture, the learned counsel appearing for the petitioners prayed that the personal appearance of the petitioners before the trial Court, may be dispensed with.

7. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and at the time of framing 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.

8. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event that their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.



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9. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

rgi/ham

To

1. The Judicial Magistrate No.II, Attur

2. The Inspector of Police,
Thalaivasal Police Station,
Salem

3. The Public Prosecutor,
High Court,
Madras.

+1 CC to Ms.S.Vinodha, Advocate sr 9611.

Cr1.O.P.No.2857 of 2022
and

Cr1.M.P.No.1300 of 2022

PCH(CO)
SP(07/03/2022)