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Crl.O.P.Nos.10948 & 22059 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **RMT.TEEKAA RAMAN**

Crl.O.P.Nos.10948 & 22059 of 2022
Crl.M.P.Nos.6371, 6372, 14223 & 14224 of 2022

D.Senthil Kumar .. Petitioner in
Crl.O.P.No.10948 of 2022

S.Dhanalakshmi .. Petitioner in
Crl.O.P.No.22059 of 2022

Vs.

The Directorate of Enforcement
represented by its Assistant Director,
Government of India, Ministry of Finance,
Department of Revenue, 2nd & 3rd Floor,
Murugesan Naicker Complex,
No.84, Greams Road, Chennai – 600 006.
(Crime No.26 of 2014)

.. Respondent
in both petitions

Common Prayer: Criminal Original Petition filed under Section 482
Cr.P.C. to call for the records in connection with C.C.No.8 of 2018 pending
on the file of the Principal Sessions Court, Chennai and quash the same.



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For Petitioner : Mr.S.Jeyakumar
in both petitions
For Respondent : Mr.S.Sasikumar
in both petitions Special Public Prosecutor (ED)

COMMON ORDER

[Made by P.N.PRAKASH, J.]

When the matter was taken up for hearing, the learned counsel for the petitioners sought permission of this Court to withdraw these petitions and also made an endorsement to that effect.

2. In view of the submission made by the learned counsel for the petitioners and the endorsement made, these criminal original petitions are dismissed as withdrawn. Connected Crl.M.Ps. stands closed.

3. However, the learned counsel for the petitioners prayed that the presence of the petitioners before the trial Court may be dispensed with.



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4. In our opinion, a blanket order of dispensing with the presence of the accused before the trial Court cannot be granted. That apart, we are informed that the discharge petitions that have been filed by the petitioners are pending.

5. In such view of the matter, this Court issues the following directions:

- i. The petitioners shall file an undertaking affidavit before the trial Court giving the details of their address, mobile number and Aadhaar card number;
- ii. The petitioners shall disclose the name of the Advocate, whom they have engaged in this case and shall also state that notice to the said Advocate, is tantamount to notice to them;
- iii. The petitioners shall be present before the trial Court on the date of framing of charges;
- iv. After framing of charges and questioning, the petitioners shall file an affidavit stating that their Advocate, engaged by them, will conduct their case in their absence on the day they are examined-in-chief and he will cross-examine the witnesses in their absence and will not adopt any dilatory tactics as held by the Supreme Court in *Vinod Kumar vs. State of Punjab*¹;

¹ (2015) 3 SCC 220



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- v The petitioners shall also state in the affidavit that they will not dispute their identity and appear before the trial Court as and when required;
- vi. The petitioners shall appear before the trial Court for questioning under Section 313 Cr.P.C. and on the date of judgment;
- vii. On such affidavit being filed by the petitioners, the trial Court may consider their applications under Section 317 Cr.P.C. liberally and dispense with their presence for trial;
- viii. If the petitioners adopt any dilatory tactics, the trial Court is empowered to insist upon the presence of the petitioners and even remand them in judicial custody as held by the Supreme Court in *State of Uttar Pradesh v. Shambhu Nath Singh*²;
- ix. If any of the petitioners abscond, a fresh FIR can be registered under Section 229A IPC; and
- x. A copy of the affidavit shall be served on the learned Special Public Prosecutor of the trial Court.

(P.N.P.,J.) (TKRJ)
12.10.2022

nsd



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- 1.The Assistant Director,
Directorate of Enforcement
Government of India, Ministry of Finance,
Department of Revenue, 2nd & 3rd Floor,
Murugesan Naicker Complex,
No.84, Greams Road,
Chennai – 600 006.
- 2.The Special Public Prosecutor
High Court, Madras



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