



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.20773 of 2021
and
Crl.M.P.(MD)No.11858 of 2021

Kowsik ... Petitioner/ Accused No.5
Vs.

1.State through
The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.
(Crime No.5 of 2016) ... Respondent/ Complainant

2.S.Ramesh ... Respondent/ Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.176 of 2020 on the file of the Judicial Magistrate, Radhapuram, Tirunelveli District and quash the same in respect of the petitioner.

For Petitioner : Mr.A.Jeyaram

For Respondents : Mr.E.Antony Sahaya Prabahar,
Addl. Public Prosecutor for R1.

O R D E R

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

2.The petitioner is facing trial in C.C.No.176 of 2020 on the file of the Judicial Magistrate, Radhapuram. The petitioner is figuring as A5 therein.

3.The learned counsel for the petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned proceedings.

4.I am not persuaded by the said submissions. As rightly pointed out by the learned Additional Public Prosecutor, the victims as well as the defacto complainant had specifically alleged that the



petitioner was present in the scene of occurrence and that he had also taken part in crime. Of course, the role played by the petitioner might have been minor, but the petitioner will have to necessarily establish his innocence only before the Court below.

5. Leaving open all his contentions and defences, this criminal original petition is dismissed. However, taking note of overall facts and circumstances, the personal appearance of the petitioner before the Court below is dispensed with. However, the Court below will insist on the personal appearance of the petitioner only on three occasions namely, to answer the charge, for examination under Section 313 of CrPC and at the time of pronouncing Judgment. On all other occasions, the petitioner need not appear before the Court below. However, on those occasions, the petitioner will have to be represented by his counsel. If the petitioner's counsel is also absent, the benefit of dispensing with the personal appearance of the petitioner will stand automatically vacated. consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Radhapuram, Tirunelveli District.
- 2.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.JEYARAM, Advocate (SR-31[F] dated 03/01/2022)

Crl.O.P(MD)No.20773 of 2021

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RD(19.01.2022) 2P 5C

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