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Crl.O.P.(MD)No.22037 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2022

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.22037 of 2022

and

Crl.M.P.(MD)Nos.15542 and 15544 of 2022

K.Lijo

: Petitioner/A3

Vs.

1.State rep. by

The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.
Crime No.324 of 2020

2.V.Chirsthurajan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in S.C.No.69 of 2022 for the offence punishable under Sections 147, 148, 294(b), 326 and 506(ii) IPC pending before the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District and quash the same as against the petitioners as illegal.

For Petitioner : Mr.J.Pandi Dorai,

For Respondents : Mr.SS.Madhavan,
Government Advocate (Criminal Side)
for R1.



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ORDER

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This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the records pertaining to the charge sheet in S.C.No.69 of 2022 for the offence punishable under Sections 147, 148, 294(b), 326 and 506(ii) IPC is pending before the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District and quash the same as against the petitioners as illegal.

2. When the matter is taken up for hearing today, the learned counsel for the petitioner would submit that it would suffice, the personal appearance alone may be dispensed with and that the petitioner has also produced the certificate to show that the petitioner is a foot ball player.

3. Considering the limited prayer now sought for by the petitioner, the personal appearance of the petitioner before the trial Court is ordered to be dispensed with, on conditions that he shall appear at the time of initial questioning, proceedings under Section 313 of Cr.P.C., and at the time of passing judgment and on the hearings, specifically directed by the trial court. The petitioner is further directed to give an undertaking in the form of



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affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing her 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 his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

4. With the above direction, this Criminal Original Petition is disposed of. Consequently, Crl.M.P.(MD)No.15544 of 2022, is ordered and Crl.M.P.(MD)No.15542 of 2022 is closed.

14.12.2022

das



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Crl.O.P.(MD)No.22037 of 2022

K.MURALI SHANKAR,J.

das

To

- 1.The Judicial Magistrate No.II, Kuzhithurai,
Kanyakumari District.
- 2.The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.22037 of 2022
and
Crl.M.P.(MD)Nos.15542 and 15544 of 2022

Dated: 14.12.2022