



Criminal Original Petition No.18849 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.18849 of 2023

and

CrI.M.P.No.12621 of 2023

1.Paramathayalan
S/o.Murugesan

2.Aakash
S/o.Paramathayalan

...Petitioners

Vs

1.State represented by
The Inspector of Police,
S-7 Madipakkam Police Station,
Kilkattalai, Chennai - 600 117.

2.K.Sakthivel
S/o.Kaliyamoorthy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records relating to C.C.No.422 of 2022 on the file of Judicial Magistrate II, Alandur and quash the same.

For Petitioners : Mr.V.Jayalakshmi

For Respondents : Mr.A.Gopinath

Government Advocate [Crl.side] [R1]



ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.422 of 2022 pending on the file of Judicial Magistrate II, Alandur.

2. The grounds raised by learned counsel for petitioners are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioners to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

3. Learned Government Advocate [Crl.side], on instructions, submitted that there are totally 11 witnesses to be examined on the side of prosecution and out of that six witnesses have already been examined. This is yet another ground as to why this Court is not inclined to entertain this quash petition at this stage.



4. Learned counsel for petitioners requested this Court to dispense with the presence of the second petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the second petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The second petitioner shall appear before the Court below as and when required. That apart, the petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgment.

5. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.422 of 2022 within a period of three (3) months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

The trial shall be conducted on a day-to-day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in ***Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]***. If the petitioners adopt any dilatory tactics, it is open to the trial Court to insist upon the presence



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of the petitioners and remand them to custody as per the judgment of the Hon'ble Supreme Court in *State of Uttar Pradesh v. Shambhu Nath Singh (JT 2001 (4) SC 3191)*.

23.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To

- 1.The Judicial Magistrate II,
Alandur.
- 2.The Inspector of Police,
S-7 Madipakkam Police Station,
Kilkattalai, Chennai - 600 117.
- 3.The Public Prosecutor,
High Court, Madras.

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