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Crl.O.P.No.12178 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.No.12178 of 2023
and Crl.M.P.Nos.7372 and 7375 of 2023**

A.Vijayan

.. Petitioner

Versus

**1. The State,
Rep by Inspector of Police,
D-3 Ice House Police Station,
Triplicane - 600 005, Chennai.**

2. Michael Jenitton Xavier

.. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records in C.C.No.6817 of 2022 on the file of the learned Metropolitan Magistrate No.II, Egmore at Chennai and quash the same as far as this petitioner A2 is concerned.

For Petitioner : Mr.M.Rajasekar

**For Respondents : Mr.A.Gopinath,
Government Advocate (Crl. Side),
for R1**

: Mr.A.M.Elango



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ORDER

This petition has been filed seeking to quash C.C.No.6817 of 2022 on the file of the learned Metropolitan Magistrate No.II, Egmore at Chennai.

2. The grounds raised by the learned Counsel for the petitioner 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 petitioner 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. It is brought to the notice of this Court that already six witnesses have been examined in this case. Hence, it is not appropriate for this Court to quash the proceedings at this stage.

4. The learned Counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is



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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 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 off with a direction to the Court below to complete the proceedings in C.C.No.6817 of 2022 within a period of three months from the date of receipt of a copy of this order. 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 petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble Supreme Court in ***STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191)***. Consequently, connected miscellaneous petitions are closed.

31.08.2023

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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grs
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To

1. The Metropolitan Magistrate No.II,
Egmore at Chennai.
2. The Inspector of Police,
D-3 Ice House Police Station,
Triplicane - 600 005, Chennai.
3. The Public Prosecutor,
High Court of Madras.



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N.ANAND VENKATESH, J.

grs

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