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Crl.O.P.No.15752 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.No.15752 of 2023
and Crl.M.P.Nos.9816 and 9818 of 2023**

1. Monicasri
2. M.Aruna
3. Manoharan
4. Kirubakaran
5. Kanchana
6. Manivannan
7. Jaganathan
8. Gurukadatcham .. Petitioners

Versus

1. The State by,
The Inspector of Police,
E1 Mylapore Police Station (L&O),
Chennai.
2. S.Saraswathi .. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.1310 of 2023 pending before the learned XVIII Metropolitan Magistrate Court, Saidapet at Chennai.



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For Petitioners : Mr.C.Ganesh Pandian

For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor,
for R1

ORDER

This petition has been filed challenging the proceedings in C.C.No.1310 of 2023 pending before the learned XVIII Metropolitan Magistrate Court, Saidapet at Chennai.

2. The grounds raised by the counsel for the 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.



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3. The learned Additional Public Prosecutor, on instructions, submitted that the trial has commenced in this case and already four witnesses have been examined. This is yet another reason as to why this Court is not inclined to interfere with the Final Report at this stage.

4. The learned Counsel for the petitioners requested this Court to dispense with the presence of A2, A3 and A5. Taking into consideration, the facts and circumstances of the case, the presence of the A2, A3 and A5 only is dispensed with and they shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. A2, A3 and A5 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.1310 of 2023 within a period of four 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 A2, A3 and A5



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adopt any dilatory tactics, it is open to the trial Court to insist upon the presence of A2, A3 and A5 and remand them 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 also closed.

21.08.2023

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

To

1. The XVIII Metropolitan Magistrate Court,
Saidapet, Chennai.
2. The Inspector of Police,
E1 Mylapore Police Station (L&O),
Chennai.
3. The Public Prosecutor,
High Court of Madras.



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N.ANAND VENKATESH, J.

grs

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