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CrI.O.P.No.18306 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.18306 of 2023
and
CrI.M.P.Nos.12165 & 12166 of 2023

J.Joswa Ebinesar

...Petitioner

vs.

Mettur Taluk Cooperative Housing Society Limited,
SLMHSG.68, Opp to ESI,
Mettur Dam 636401, Mettur Taluk,
Salem District, Rep by its,
Secretary Mr.M.Hariharan.

...Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records concerned in CC.No.8 of 2023 on the file of the learned Judicial Magistrate No.I, Mettur, Salem District and quash the same.

For Petitioner : Mr.C.Prakasam



CrI.O.P.No.18306 of 2023

WEB COPY

ORDER

This Criminal Original Petition has been filed to call for the records concerned in CC.No.8 of 2023 on the file of the learned Judicial Magistrate No.I, Mettur, Salem District and quash the same.

2. The grounds raised by the 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. 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 dispensed with and he shall appear before the Court below as and when required by the Court below and during all the other times, he shall be permitted to be represented by the counsel. The petitioner shall be present before the Court below at the time of



CrI.O.P.No.18306 of 2023

questioning under Section 313 of the Code of Criminal Procedure and at the time of final judgement.

4. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in CC No.8 of 2023 within a period of six 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 also closed.

16.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
nsa



CrI.O.P.No.18306 of 2023

N. ANAND VENKATESH, J.

nsa

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To

- 1.The Judicial Magistrate No.I, Mettur, Salem District
2. The Public Prosecutor,
Madras High Court,
Chennai 600 104..

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