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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.18238 of 2023

and

Crl.M.P Nos.12112 and 12114 of 2023

1.Kaliyamoorthi

2.Karthick

3.Ganesan

4.Saminadhan

5.Suresh

6.Subramaniyan

...Petitioners

Vs.

1.The State Represented by
The Inspector of Police,
Thoothur Police Station,
Ariyalur District. (Crime No.123 of 2021)

2.Ayyadurai

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of



Criminal Procedure Code, praying to call for the entire records pertaining in C.C.No.331 of 2022 on the file of the Learned Judicial Magistrate No.II, Ariyalur and Quash the same.

For Petitioner : Mr.R.Gokulakrishnan
For Respondents : Mr.A.Gopinath for R1
Government Advocate (Crl. Side)

ORDER

This Criminal original petition have been filed challenging the proceedings in C.C.No.331 of 2022 on the file of the Learned Judicial Magistrate No.II, Ariyalur.

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. There is a case and counter and the respondent police had investigated both the FIRs in Crime Nos.123 and 124 of 2022. On completion of investigation, the respondent police filed a final report and the same has been taken on file in CC No.331 and 330 of 2022 before the Judicial Magistrate II, Ariyalur. Under such circumstances, the case has to be proceeded further in line with the judgment of the Apex Court in *Nathi Lal and others vs. State of Uttarpradesh and another* reported in *1990 (Supp) SCC 145*. Hence, there is no question of entertaining this criminal original petition.

4. Accordingly, this criminal original petition is disposed of with a direction to the Court below to complete the proceedings in CC No.331 and 330 of 2022, within a period of four months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

5. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioners. Taking into consideration,



the facts and circumstances of the case, the presence of the petitioners 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. 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 judgement.

6.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 petitioners 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)***.

21.08.2023

Index: Yes/No
Internet: Yes/No
rka/mkn-ii



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To

1. The Judicial Magistrate No.II,
Ariyalur.

2. The Inspector of Police,
Thoothur Police Station,
Ariyalur District.

3. The Public Prosecutor,
High Court, Madras



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N.ANAND VENKATESH.J.,

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