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CrI.O.P.No.18447 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 18.08.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**CrI.O.P.No.18447 of 2023**

**and**

**CrI.M.P.No.12286 of 2023**

J.Naveen Kumar  
S/o.Jayakumar

... Petitioner

Vs.

The State represented by  
1.The Sub-Inspector of Police,  
Kelamangalam Police Station,  
Krishnagiri.  
Crime No.184 of 2022

2.Azeem @ Babu  
S/o.Syed Hussain

... Respondents

**Prayer:** Criminal Original Petition filed under Section 482 Cr.P.C.  
praying to call for the records in C.C.No.313 of 2022 on the file of  
District Munsif cum Judicial Magistrate, Denkanikottai and quash the  
same.

For Petitioner : Mr.D.Mario Johnson

For Respondents : Mr.A.Gopinath  
Government Advocate [CrI.side] [R1]

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**ORDER**

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.313 of 2022 on the file of District Munsif cum Judicial Magsitrate, Denkanikottai.

2. Heard Mr.D.Mario Johnson, learned counsel for petitioner and Mr.A.Gopinath, learned Government Advocate [Crl.side] appearing for first respondent.

3. The grounds raised by learned counsel for 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.

4. Learned counsel for 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



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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 appear before the Court below as and when required. That apart, the petitioner shall be present before the Court below at the time of framing of charges u/s.240 Cr.P.C., at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgment.

5. It is brought to the notice of this Court that there is a case in counter in Crime No.183 of 2022 and the case ended in filing of final report before the Court below and the same is pending C.C.No.265 of 2022. In view of the same, the Court below has to necessarily proceed further with the case in line with the judgment of the Apex Court in *Nathilal vs. State of U.P.* [1990 SCC (Crl.) 638].

6. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.Nos.265 and 313 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.



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**N.ANAND VENKATESH, J**

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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 v. Shambhu Nath Singh (JT 2001 (4) SC 3191)***.

**18.08.2023**

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The District Munsif cum Judicial Magsitrate,  
Denkanikottai.

2.The Sub-Inspector of Police,  
Kelamangalam Police Station,  
Krishnagiri.  
Crime No.184 of 2022

3.The Public Prosecutor,  
Madras High Court.

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