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Crl.OP.No.21093 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21093 of 2023
and
Crl.M.P.Nos.14503 & 14504 of 2023

O.V.Nachimuthu,
S/o.Venkatachalam

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
Central Crime Branch,
Salem City.
(Crime No.4 of 2002)

2.V.Jayaprakash
S/o.Velayutham

... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in C.C.No.121 of 2005 on the file of the learned Chief Judicial Magistrate, Salem in Crime No.4 of 2002 on the file of the first respondent police and quash the same.

For Petitioner : Ms.S.Meenakshi

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.121 of 2005 on the file of the learned Chief Judicial Magistrate, Salem.

2. 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.

3. Learned Additional Public Prosecutor appearing on behalf of first respondent submitted that there are totally 121 witnesses in this case and 95 witnesses have already been examined. This is yet another reason why 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 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 of with a direction to the Court below to complete the proceedings in C.C.No.121 of 2005 within a period of four (4) months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are also closed.

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



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N.ANAND VENKATESH, J.

gm

the judgment of the Hon'ble Supreme Court in *State of Uttar Pradesh v. Shambhu Nath Singh (JT 2001 (4) SC 3191)*.

25.09.2023

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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To

1.The Chief Judicial Magistrate,
Salem.

2.The Inspector of Police,
Central Crime Branch,
Salem City.

3.The Public Prosecutor,
Madras High Court,
Chennai.

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