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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.01.2023

CORAM:

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**

Crl.O.P.(MD)No.1565 of 2023

and

Crl.M.P.(MD)Nos.1340 and 1342 of 2023

V.Eswari

: Petitioner

Vs.

1.The Inspector of Police,
Sedapatti Police Station
Madurai District.
Crime No.242 of 2021

2.Kaveri

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in connection with C.C.No.276 of 2022 on the file of the learned District Munsif cum Judicial Magistrate, Peraiyur and quash the same insofar as the petitioner/A4 is concerned.

For Petitioner

: Mr.R.Senthilkumar

For R1

: Mr.M.Muthumanickam

Government Advocate (Crl. side)

**ORDER**

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.276 of 2022 before the learned District Munsif cum Judicial Magistrate, Peraiyur.

2.The learned counsel appearing for the petitioner would submit that the petitioner is a Government Servant and it is absolutely a case of false implication. He would further submit that the de-facto complainant has falsely implicated A9 and A10 in this case and later, she herself has given a statement under Section 161 of Cr.P.C., stating that she has falsely implicated them, based on that, they have been deleted later in the charge sheet. He would further submit that though the petitioner has got a good case on merits, he is not pressing for the quash application.

3.The learned Government Advocate (Crl. Side) submitted that there are materials available to proceed with the case as against the petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges framed against the petitioner has to be gone into a full-fledged trial. Further, he would submit that the trial has also been commenced and hence, he prayed for dismissal of the petition.



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4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5.At this juncture, the learned counsel appearing for the petitioner prayed that the personal appearance of the petitioner before the trial Court, may be dispensed with. He would also seeks that the time frame may be fixed to the trial Court to complete the trial.

6.Accepting the said submission, the presence of the petitioner before the trial Court shall be dispensed with on condition that he shall be present on the first day of appearance, on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7.The petitioner is further directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates and that the Counsel representing him will cross examine the prosecution witnesses on the same day they are examined in chief.



The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification. If the petitioner adopts any dilatorial tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

8. Accordingly, this Criminal Original Petition stands dismissed with a direction to the learned District Munsif cum Judicial Magistrate, Peraiyur, is directed to complete the trial in C.C.No.276 of 2022, within a period of six months from the date of receipt of a copy of this order. The petitioner is at liberty to raise all the defence before the trial Court in the course of trial. Consequently, connected Miscellaneous Petitions in CrI.M.P(MD) No.1340 of 2023 stands closed and CrI.M.P(MD) No.1342 of 2023 stands ordered.

27.01.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
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WEB COPY To

- 1.The District Munsif cum Judicial Magistrate, Peraiyur.
- 2.The Inspector of Police,
Sedapatti Police Station
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai



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A.D.JAGADISH CHANDIRA, J.,

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