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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2023

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

CrI.O.P.(MD) No.8265 of 2022

and

CrI.MP(MD)Nos.5584 and 5585 of 2022

1.Karpagam ... Petitioner/Accused No.1

Vs.

1.State rep by
The Inspector of Police,
SPE/CBI/ACB,
Madurai.
(R.C.No.229 2019 A 0015 of 2019)
... 1st Respondent/Complainant

2.Shailendra Sharma ... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order of learned II Additional District Judge for CBI Cases, Madurai, dated 23.01.2021 taking cognizance for the offences mentioned in the charge sheet in C.C.No.9 of 2021 pending on the file of the learned II Additional District Judge for CBI Cases, Madurai.

For Petitioner : Mr.A.Robinson
for Mr.M.Saravanan

For R1 : Mr.M.Muthusaravanan
Special Public Prosecutor

**ORDER**

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This petition has been filed by the petitioner, who was arrayed as first accused, to set aside the order of the learned II Additional District Judge for CBI Cases, Madurai, dated 23.01.2021 taking cognizance for the offences under Sections 120(B) r/w 420, 468, 471, 409 of IPC and Sections 13(2) r/w 13(1)(d) of P.C., Act, 1988, in C.C.No.9 of 2021 pending on the file of the learned II Additional District Judge for CBI Cases, Madurai.

2.The learned Special Public Prosecutor submitted that now, the charge was framed and examination of witnesses has already been commenced.

3.In view of the submission made by the learned Special Public Prosecutor, at this stage, the petition for quashment cannot be entertained.

4.However, considering the age of the petitioner and also considering the specific condition of the petitioner that she donated her Kidney to another person, the personal appearance of the petitioner before the trial Court is hereby, ordered to be dispensed with, on



conditions that she shall appear at the time of initial questioning, proceedings under Section 313 of Cr.P.C., and at the time of passing judgment and on the hearings, specifically directed by the trial court. The petitioner is further directed to give an undertaking in the form of affidavit that she will be duly represented by a counsel on all hearing dates and that the Counsel representing her will cross examine the prosecution witnesses on the date of chief examination. The petitioner shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioner adopt any dilatorial tactics, it is open to the Trial Court to insist for her 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*.

5. Accordingly, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the contentions before the Trial Court. Consequently, the connected miscellaneous petitions are closed.

04.07.2023

NCC : Yes / No
Index : Yes / No



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Internet : Yes / No
dss



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K.K.RAMAKRISHNAN, J.

dss

To

1. II Additional District Judge for CBI Cases,
Madurai.
2. The Inspector of Police,
SPE/CBI/ACB,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P.(MD) No.8265 of 2022
and
Crl.MP(MD)Nos.5584 and 5585 of 2022

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