



Crl.O.P.(MD).No.14009 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2023

CORAM:

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

Crl.O.P.(MD) No.14009 of 2020

and

Crl.M.P(MD)Nos.6437 and 6438 of 2020

1.Jesupatham

2.Rajkumar

3.Albert Raj

4.Swamidoss

... Petitioners

Vs.

1. The State rep by
The Inspector of Police,
Seidunganallur Police Station,
Seidunganallur, Thoothukudi District,
(Crime No.41 of 2018)

2. T.Joe Rayan

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 Cr.P.C. praying to call for the records relating to the impugned charge sheet in P.R.C.No.35 of 2019 on the file of the Judicial Magistrate, Srivaikundam and quash the same as illegal.



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For Petitioner : Mr.A.Ajith Geethan

For Respondents : Mr.M.Muthumanikkam
Government Advocate(Crl.Side)
for R1

: Mr.K.R.Laxman for R2

ORDER

The petitioner has filed this Criminal original petition against the impugned charge sheet in P.R.C.No.35 of 2019 on the file of the Judicial Magistrate, Srivaikundam.

2. The case of the prosecution is that on 19.04.2018 at about 11.00 am., the petitioners damaged the gate of the defacto complainant worth about Rs.3,500/- with iron rod. Further the petitioners committed criminal intimidation against the *defacto* complainant. With the above allegations, the *defacto* complainant lodged complaint against the petitioner. Therefore, the first respondent police registered FIR against the petitioners in crime No.41 of 2018 for the alleged offences punishable under Sections 294(b), 506(ii) of IPC and Section 3 of TNPPDL Act.



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3. This quash petition was filed in the year 2020. At the time, there was a controversy regarding the applicability of the TNPPDL Act to the private property. Now, the Hon'ble Division Bench has held that the said Act is applicable to the private property and the same has also been confirmed by the Hon'ble Supreme Court.

4. In the said circumstances, the petitioner wants to withdraw the case with liberty to raise all the points before the learned trial Judge and requested this Court to direct the learned trial Judge to dispose of the same within a time frame and considering the age of the petitioner seeks permission to dispense with his appearance before the trial Court.

5. In view of the pendency of the case, this Court is inclined to accept the request of the learned counsel appearing for the petitioner and dispose of this Criminal Original Petition in the following terms:

5.1.The petitioner is hereby directed to raise all the points before the learned Judicial Magistrate, Srivaikundam and the learned Judicial Magistrate, Srivaikundam, is hereby directed to consider the same independently.

5.2.Considering the pendency of the P.R.C.No.35 of 2019, the



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learned Judicial Magistrate, Srivaikundam is directed to commit the case to the Sessions Court, within a period of one month from the date of receipt of a copy of this order. Thereafter, on receipt of the committal proceedings, the learned Principal Sessions Judge, Thoothukudi, is hereby directed to dispose the same within a period of nine months thereafter.

6. Further, as per the request made by the learned counsel for the petitioner the appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:

- (i) The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;
- (ii) The date of questioning under Section 313 Cr.P.C;
- (iii) On the date of Judgement.

6.1. The petitioners are directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates.

6.2. The petitioners shall not dispute the identity of the witnesses.

6.3. The petitioners shall appear before the Court if their presence is insisted by the trial judge for the purpose of identification.



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6.4.If the petitioners adopt any dilatory tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India in *State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

Consequently, the connected Criminal Miscellaneous Petitions are closed.

03.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sbm



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To

1. The Judicial Magistrate,
Srivaikundam.
2. The Principal District and Sessions Court,
Thoothukudi.
3. The Inspector of Police,
Seidunganallur Police Station,
Seidunganallur, Thoothukudi District,
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Section Officer,
The Criminal Section (Records)
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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