



CrI.OP(MD).No.21321 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2023

CORAM:

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

CrI.OP(MD)No.21321 of 2018

and

CrI.MP(MD)Nos.9861 & 9862 of 2018

Srinivasagam

... Petitioners/Accused No.1

vs.

1.The State Rep by

The Inspector of Police,
Irukkankudi Police Station,
Virudhunagar District.
(Crime No.35 of 2018)

... Respondent/Complainant

2.Thangamalai

... Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the case in C.C.No.172 of 2018 on the file of the learned Judicial Magistrate No.II, Sattur, Virudhunagar District, and quash the same as against the petitioners.



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For Petitioner : Mr.R.Anand
For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

This petition is filed seeking quashment of C.C.No.172 of 2018 as against the petitioner consent on the file of the Judicial Magistrate No.II, Sattur, Virudhunagar District.

2.When the matter is taken up for hearing, the learned Additional Public Prosecutor would submit that there are totally 21 witnesses. Out of which, 8 witnesses have been examined before the Trial Court and remaining 13 witnesses to be examined.

3.In view of the submission made by the learned Additional Public Prosecutor, at this stage, this Court is inclined to dismiss the petition.



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4. Accordingly, this Criminal Original Petition is dismissed without going into the merits of the case with liberty to the petitioner to raise all the grounds in C.C.No.172 of 2018 before the Trial Court. Consequently, connected Miscellaneous petition in CrI.M.P(MD) No. 9861 of 2018 stands closed and CrI.M.P(MD) No.9862 of 2018 stands ordered.

5. However, considering the facts and circumstances of the case and also considering the age of the petitioner, the personal appearance of the petitioner before the Trial Court is ordered to be dispensed with, on conditions that he shall appear 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 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 he is examined in chief. The petitioner shall not dispute the identity of the remaining witnesses to be examined. The petitioner shall appear before the Court in



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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 their 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**.

01.03.2023

dss

NCC : Yes/No

Internet: Yes

Speaking/Non-Speaking order

1. The Judicial Magistrate No.II, Sattur,
Virudhunagar District.
- 2.The Inspector of Police,
Irukkankudi Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN,J.

dss

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