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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P. No.2901 of 2024
and CrI.M.P. Nos.2122 & 2123 of 2024

Kaviyathamizhan

...Petitioner

Vs

1.The Inspector of Police,
Marakkanam Police Station,
Villupuram District.
Crime No.78 of 2022

2.Nagaraj

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.127 of 2022 on the file the Judicial Magistrate II, Tindivanam and quash the same.

For Petitioner : Mr.T.Arul

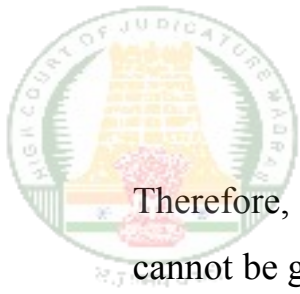
For Respondents : Mr.A.Damodaran

Additional Public Prosecutor

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioner under Sections 147, 148, 294(b), 448, 323, 324, 506(2) and 326 of IPC.

2.The main ground that was raised by the learned counsel for the petitioner is that the petitioner was not even in the scene of occurrence at the time of the incident.



Therefore, the petitioner is literally raising the plea of alibi in this petition. This cannot be gone into this petition filed under Section 482 of Cr.P.C.,

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3.The grounds raised by the counsel for the 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. The facts of this case and grounds raised the quash petition does not fall within the parameters laid down by the Apex Court in ***Bhajan Lal*** case reported in ***(1992) Suppl (1) SCC 335***. 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.

4.It is also brought to the notice this Court that there is a case and counter and in the other case, the same is pending before the learned Assistant Sessions Judge, Thindivanam, in S.C.No.284 of 2023 relating to the same incident. In view of the same, this case in C.C.No.127 of 2022 is also withdrawn and transferred to the file of the learned Assistant Sessions Judge, Thindivanam. Both these cases shall be tried in line with the judgment of the Apex Court in ***Nathi Lal and others vs. State of Uttarpradesh and another*** reported in ***1990 (Supp) SCC 145***.

5.Accordingly, this Criminal Original Petition is disposed with a direction to the Court below to complete the proceedings, as expeditiously as possible. 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 the judgment of the Hon'ble Supreme Court in ***STATE OF***

UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191).

Consequently, connected miscellaneous petitions are closed.

16.02.2024

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

ssr

To

1.The Judicial Magistrate II, Tindivanam.

2.The Inspector of Police,
Marakkanam Police Station,
Villupuram District.

3.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSR

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