



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P. No.3216 of 2024
and Crl.M.P. Nos.2362 & 2363 of 2024

S.Athimoolam

...Petitioner

Vs

1.State Rep. by its
The Inspector of Police,
Tirukoilur Police Station,
Villupuram District.
(Crime No.687 of 2019)

2.S.Viyalakulamary

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the C.C.No.138 of 2021 and quash the same on the file of Judicial Magistrate, Tirukoilur.

For Petitioner : Mr.P.Mohanraj
For Respondent : Mr.A.Gopinath
Government Advocate



ORDER

WEB COPY This petition has been filed challenging the proceedings initiated by the respondent against the petitioner under Sections 448, 294(b), 353, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. 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 in the quash petition do not fall within the parameters laid down by the Apex Court in *State of Haryana and others v. Bhajanlal and others [(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.

3. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in



WEB COPY

Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement. The petitioner shall also execute a bond u/s.88 Cr.P.C. before the Court below.

4. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.138 of 2021 within a period of four months from the date of receipt of a copy of this order. 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 also closed.

16.02.2024

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
ssr



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N.ANAND VENKATESH, J

SSR

To

- 1.The Judicial Magistrate, Tirukoilur.
- 2.The Inspector of Police,
Tirukoilur Police Station,
Villupuram District.
- 3.The Public Prosecutor,
High Court, Madras.

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