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Crl.O.P.No.4157 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P No.4157 of 2024
and Crl MP No.3082 and 3083 of 2024

1. P.M.Mohamed Fahad @ Mohamad Bahathu
2. P.M.Mohamed Faisal @ Mohamed Baisal ...Petitioners
Vs.

1.The State Rep. by its
Sub Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District.

2. Noorullah ...Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in CC.NO.108/2019 on the file of the District Munsif Cum Judicial Magistrate, Kattumannarkoil and quash the same.

For Petitioner : Mr.M.Illiyas

For Respondent : Mr.A.Damodaran, APP

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioners under Sections 294(b), 448. 427, 323,



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324 and 506(2) of IPC.

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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 Chief. The petitioner shall be present before the Court below at the time of questioning



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under Section 313 Cr.P.C and at the time of passing of the final judgement and as and when required. 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 CC.NO.108/2019 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.

23.02.2024

Index : Yes/No
Internet : Yes/No
Speaking Order : Yes/No
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N.ANAND VENKATESH,J

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To

1. The District Munsif Cum Judicial Magistrate, Kattumannarkoil
2. The State Rep. by its
Sub Inspector of Police,
Kattumannarkoil Police Station,
Cuddalore District.
- 3.The Public Prosecutor,
High Court, Madras.

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