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Crl.O.P.No.7090 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.7090 of 2023
and
Crl.M.P.No.4442 & 4444 of 2023

K.Sampath

... Petitioner

Vs.

C.Mahalingam

...Respondent

Prayer: Criminal Original Petition under Section 482 of the Criminal Procedure Code to call for records relating to S.T.C.No.1108 of 2022 on the file of the Judicial Magistrate, Pappireddipatti, pending disposal of this petition.

For Petitioner : Mr.P.Muralidharan

For Respondent : M/s.Kavitha

ORDER

This petition has been filed to call for the records in S.T.C.No.1108 of 2022 on the file of the Judicial Magistrate, Pappireddipatti, and quash the same.



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2. The main ground that was urged by the learned counsel for the petitioner is that M/s.Sampath Agencies is a Partnership Firm and the proceedings have been initiated without adding the Firm as an accused person. Materials that have been placed before this Court shows that at some point of time, the petitioner himself has identified as Proprietor of M/s.Sampath Agencies. However, the petitioner now wants to project that M/s.Sampath Agencies is a partnership Firm and to substantiate the same, the relevant documents dated 01.04.2017 and 28.02.2018 were also relied upon. If the firm had been constituted in the year 2017, there is no reason as to why the petitioner identified himself as a proprietor as late as in the year 2022. Even the letter given by the Bank shows that the Bank Account stands in the name of the proprietary concern. Hence, the fact as to whether M/s.Sampath Agencies is a proprietary concern or a Partnership Firm, cannot be gone into in this petition filed under Section 482 of Cr.P.C.

3. Further the grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court



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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 ***Bhajanlal case reported in (1992) Suppl (1) SCC 335***. It is left open to the petitioner to raise all the grounds before the Court 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. 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 under Section 313 Cr.P.C and at the time of passing of the final judgement.

5. Accordingly, this Criminal Original Petition is dismissed and the



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Court below is directed to complete the proceedings in S.T.C.No.1108 of

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N.ANAND VENKATESH,J

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2022, within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petitions are also closed.

23.01.2024

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Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

To

1.The Judicial Magistrate,
Pappireddipatti.

2.The Public Prosecutor,
High Court, Madras.

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and

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