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CRL.O.P No.473 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.473 of 2024
and CRL.M.P.No.306 of 2024

1.Prabu

2.Senthilkumar

3.Kavitha

4.Amutha

...Petitioners

Vs.

1.The State represented by its
Inspector of Police,
Panamarathupatty Police Station,
Salem District.
(Crime No.49 of 2021)

2.Ramesh

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records a case in C.C.No.52 of 2022 on the file of the Judicial Magistrate No.1, Salem and quash the same.

For Petitioner : Mr.M.Subash

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor [R1]



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ORDER

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This petition has been filed challenging the proceedings initiated by the respondent against the petitioner under Sections 294(b), 323, 324, 355, 447, and 506(ii) of IPC.

2.The grounds raised by the counsel for the petitioners 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. It is left open to the petitioners 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.There is a case and counter and the respondent police had investigated both the FIRs in Crime Nos.45 and 52 of 2021. On completion of investigation, the respondent police filed a final report and the same has been taken on file in CC No.598 of 2021 and CC No.52 of 2022 before the Judicial Magistrate-I, Salem. Under such circumstances, the case has to be proceeded further in line with the judgment of the Apex Court in *Nathi Lal*



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and others vs. State of Uttarpradesh and another reported in **1990 (Supp)**

SCC 145. Hence, there is no question of entertaining this criminal original petition.

4. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

5. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioners. Taking into consideration, the facts and circumstances of the case, the presence of the petitioners 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 petitioners 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.

6. 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 petitioners adopts any dilatory tactics, it is open to the trial Court to insist upon the presence



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N.ANAND VENKATESH, J

SSR

of the petitioners 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)***.

11.01.2024

Index: Yes/No
Speaking order/Non-speaking Order
Neutral Citation: Yes/No
SSR

To

- 1.The Judicial Magistrate No.1,
Salem
- 2.The Inspector of Police,
Panamarathupatty Police Station,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.

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