



Crl.O.P.(MD)No.17140 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.17140 of 2024

and

Crl.M.P.(MD)Nos.10729 & 10730 of 2024

1.Kannan

2.Sanmugakani

... Petitioners

Vs.

1.The Inspector of Police,
Suchindrum Police Station,
Kanyakumari District.
(Cr.No.153 of 2008)

2.V.Asokan

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the entire records pertaining to the case in S.C.No.53 of 2013 on the file of the Principal District Court, Kanyakumari District at Nagercoil and quash the same as against the petitioners.

For Petitioners : Mr.B.Micheal Sebastin

For R1 : Mr.K.Sanjai Gandhi,
Government Advocate (Crl. Side)



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CrI.O.P.(MD)No.17140 of 2024

ORDER

This criminal original petition has been filed seeking orders to quash the case in S.C.No.53 of 2013 on the file of the Principal District Court, Kanyakumari District at Nagercoil.

2.It is seen from the records that on the basis of the complaint given by the second respondent, FIR came to be registered and after completion of investigation, charge sheet came to be filed against the petitioners and others for the offence under Sections 147, 148, 188, 154(A), 353, 332, 336, 307 IPC and Section 3 of PDP Act 1989 r/w Section 7 of 25 Arms Act.

3.When the matter is taken up for hearing today, the learned Government Advocate(Crl.side) appearing for the first respondent would submit that the trial has already commenced and the case is posted for examination of L.Ws.4 & 7.



CrI.O.P.(MD)No.17140 of 2024

WEB COPY

4.At this juncture, the learned counsel appearing for the petitioners would submit that the petitioners are restricting their prayer only with regard to the dispensing their personal appearance before the trial Court.

5.Considering the above, the personal appearance of the petitioners before the trial Court is ordered to be dispensed with, on conditions that they shall appear at the time of initial questioning, proceedings under Section 313 of Cr.P.C., and at the time of passing judgment and on all the hearings, specifically directed by the trial court. The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopt any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment



CrI.O.P.(MD)No.17140 of 2024

WEB COPY

of Supreme Court of India, *in State of Uttar Pradesh Vs. Shambunath Singh*, reported in *2001 (4) SCC 667*.

6.With the above directions, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

17.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
gns

To

- 1.The Principal District Court,
Kanyakumari District at Nagercoil.
- 2.The Inspector of Police,
Suchindrum Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.17140 of 2024

K.MURALI SHANKAR,J.

gns

CrI.O.P.(MD)No.17140 of 2024

17.10.2024