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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28.01.2025

CORAM:

THE HONOURABLE **MR. JUSTICE K.K.RAMAKRISHNAN**

CrI.O.P.(MD) No.2793 of 2024

and

CrI.M.P(MD) Nos.2189 and 2190 of 2024

Samson Vijayakumar ... Petitioner/1st Accused

Vs.

1.The Inspector of Police,
CBI/ACB,
Madurai.
(RC 229 2020 A 0005)

... 1st Respondent/Complainant

2.Krishnamurthy

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition has been filed under Section 482 Cr.P.C. praying to call for the records bearing in C.C.No.5 of 2022 on the file of the learned II Additional District Court (CBI Cases), Madurai, and quash the same as against the petitioner.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.C.Muthu Saravanan

Special Public Prosecutor for R1



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ORDER

The petitioner is accused No.1 filed this petition to quash the proceedings pending in C.C.No.5 of 2022 on the file of the learned II Additional District Court (CBI Cases), Madurai.

2.The case of the prosecution is that in the year 2019, the petitioner was working as Deputy Chief Engineer/Construction, Southern Railway, Trichy, and he was supervising the work undertaken by the Railway contractor namely Premkumar Jayaraman/A2. Both of them entered into criminal conspiracy with other accused and caused loss to the Government to the tune of Rs.1.73 Crores. Hence, the complaint. The respondent Police registered a complaint and completed the investigation and filed the final report and the same was taken on file in C.C.No.5 of 2022, by the learned II Additional District Court (CBI Cases), Madurai. To quash the same, the present petition has been filed.

3.When the matter was taken up for hearing the learned counsel for the petitioner sought permission of this Court to raise all the points before the trial Court at the time of trial. He further requested this Court



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to dispense with the appearance of the petitioner before the trial Court during trial.

4. This Court is inclined to accept the request of the petitioner.

Hence, this petition is disposed of with the following directions:

1. The petitioner is directed to raise all the points before the trial Court.
2. The appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:
 - (i) The date of furnishing copies under Section 207 Cr.P.C, and initial questioning to answer the charges;
 - (ii) The date of questioning under Section 313 Cr.P.C;
 - (iii) On the date of Judgement.

3.1. The petitioner is directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates.

3.2. The petitioner shall not dispute the identity of the witnesses.

3.3. The petitioner shall appear before the Court in the event his presence is insisted by the trial judge for the purpose of identification.



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3.4. If the petitioner adopt any dilatory tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India in *State of Uttar Pradesh Vs. Shambunath Singh*, reported in 2001 (4) SCC 667.

Consequently, the connected CrI.M.P.(MD).No.2190 of 2024 is ordered and the connected CrI.M.P.(MD).No.2189 of 2024 is closed.

28.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The learned II Additional District Court (CBI Cases),
Madurai.
2. The Inspector of Police,
CBI/ACB,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

vsg

CrI.O.P.(MD) No.2793 of 2024
and
CrI.M.P(MD) Nos.2189 and 2190 of 2024

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