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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.18905 of 2022

1.Karunakaran Nair

2.Vivekanandan

...Petitioners/A1 & A2

Vs.

1. The State Rep. By
Inspector of Police,
Kulasekaram,
Kanyakumari District.

..1st respondent /
Complainant

2. Vellaidurai

..2nd respondent /
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records and quash the impugned proceedings in C.C.No.115 of 2022 on the file of the learned Judicial Magistrate No.II, Padmanabhapuram.



For Petitioners : Mr. Joseph Thankaraj
For Respondents : Mr. A. Albert James
Government Advocate
(Crl. Side)
for 1st respondent
Mr. R. Ilayaraja for R2

ORDER

This petition has been filed challenging the proceedings initiated by the respondent against the petitioners under Sections 294(b), 324, 323, 506(2) and 34 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 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.



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3. 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 at the time of framing of charges and at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

4. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in CC No.115 of 2022 within a period of six 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 petitioners adopt any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioners and remand them 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.

24.01.2025

Index: Yes/No
Internet: Yes/No
PKN

To

1. Learned Judicial Magistrate No.II, Padmanabhapuram.
2. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court.



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N.ANAND VENKATESH.J.,

PKN

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