

?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%DATED: 02.11.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

+CrI.O.P.(MD).No.19772 of 2018

and

CrI.M.P.(MD)Nos.9043 and 9044 of 2018

#1.Merlin Nalitha

2.John Fleix

3.Jerin Jackson : Petitioners

Vs.

\$1.The Inspector of Police,

Puthukadai Police Station,

Kanyakumari District.

(Crime No.170 of 2018)

2.Mebi Jenish : Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the charge sheet C.C.No.73 of 2018 on the file of the Judicial Magistrate No.II, Kuzhithurai and quash the same.

!For Petitioners : Mr.S.C.Herold Singh

^For R1 : Mr.K.Suyambulinga Bharathi

Government Advocate[Criminal side]

:ORDER

This Criminal Original Petition has been filed to quash the proceedings in CC.No.73 of 2018 on the file of the learned Judicial Magistrate No.II, Kuzhithurai.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate [Criminal Side] appearing for the first respondent.

3. The learned counsel for the petitioner would submit that the respondent police have filed a final report in the counter case also against the husband of the second respondent.

4.In the facts and circumstances of the case, this Court does not want to interfere with the proceedings before the Court below at this stage. Hence, this Court directs the learned Judicial Magistrate No.II, Kuzhithurai to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

5.At this juncture, the learned Counsel for the petitioner submitted that the presence of the petitioners before the Trial Court may be dispensed

with.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present at the time of questioning under Section 313 of Cr.P.C. and at the time of passing judgment.

7. The petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. If the petitioners adopts 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 of Supreme Court of India, in State of Uttar Pradesh Vs. Shambunath Singh, reported in JT 2001(4) SC 319.

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

To

1. The Judicial Magistrate No.II, Kuzhithurai

2. The Inspector of Police,  
Puthukadai Police Station,  
Kanyakumari District.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.