

Baluchamy and Others Vs. State Rep. by The Inspector of Police, Theni District and Another

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Court : Chennai Madurai

Decided On : Mar-22-2016

Judge : P.N. Prakash

Appeal No. : Crl.O.P.(MD) No. 4928 of 2016

Appellant : Baluchamy and Others

Respondent : State Rep. by The Inspector of Police, Theni District and Another

Judgement :

(Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in C.C. No.98 of 2015 on the file of learned Judicial Magistrate, Periyakulam and quash the same.)

1. This petition has been filed to call for the records in C.C. No.98 of 2015 on the file of learned Judicial Magistrate, Periyakulam and quash the same.

2. As this Court was not inclined to quash the proceedings in C.C.No.98 of 2015 on the file of the learned Judicial Magistrate, Periyakulam, learned counsel for the petitioners/accused seeks permission of this Court to withdraw this petition and he has also made an endorsement to that effect.

3. Permission is granted. This Criminal Original Petition is dismissed as withdrawn with liberty to raise all the points available with the petitioners before the Trial Court.

4. At this juncture, though no miscellaneous petition has been filed seeking to dispense with the personal appearance of the petitioners, yet learned counsel for the petitioners submits that the presence of the petitioners before the Trial Court may be dispensed with.

5. Accepting the submission, this Court directs the petitioners 1 and 2/A1 and A2 to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioners 1 and 2/A1 and A2 file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses in their absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same in respect of them alone. If the petitioners 1 and 2/A1 and A2 adopt any dilatory tactics, it is open to the Trial Court to insist upon their presence. Consequently, connected miscellaneous petition is closed.

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