

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2015

Date of Reserving the Judgment	Date of Pronouncing the Judgment
19.08.2015	25.08.2015

Coram

THE HON'BLE Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and

THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

W.P. No.20855 of 2011

Mamta Pandey

... Petitioner

Vs.

1.Union of India,
Rep., by Home Secretary,
Home Department,
Parliament House,
New Delhi.

2.The Home Secretary,
Government of Tamil Nadu,
Home Department,
Fort St., George,
Chennai - 600 009.

... Respondents

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, to direct the Criminal Courts of the State all the criminal cases including NDPS cases and under Special Acts to be disposed of on day to day basis and complete the trial within a reasonable time.

For petitioner .. Mrs.Mamta Pandey
[Party-in-person]

For Respondents .. Mr.SU.Srinivasan
Addl., Solicitor General of India for R1

Mr.S.T.S.Moorthy G.P., for R2

O R D E R

This Writ Petition designed as a 'Public Interest Litigation' has been filed by an Advocate praying for issuance of a Writ of Mandamus, to direct the Criminal Courts of the State and all the

criminal cases including NDPS cases and cases under Special Act to be disposed of on day to day basis.

2. The petitioner would state that in the NDPS Court, cases are pending for more than seven years for no fault of the accused and the prosecution is protracting the proceedings without producing the witnesses and seeking unnecessary adjournments. It is submitted that the accused, who are languishing in prison, are entitled to speedy trial and the trial Courts, without following principles enshrined under Article 21 of the Constitution, are adjourning the cases from time to time and therefore, the Criminal Courts and in particular the Courts dealing with NDPS cases are to be directed to dispose of the same on day to day basis.

3. When the Writ Petition was heard by this Court on 12.09.2011, the Registrar General of this Court was directed to call for a report from all the NDPS Courts in the State with regard to the pendency of cases and the reason for the delay in disposal. Simultaneously, the learned Government Pleader and the learned Additional Solicitor General of India were directed to file their respective affidavit stating as to why sufficient number of Public Prosecutors have not been appointed for each Court which according to the learned counsel for the petitioner was the main reason for pendency of cases. Subsequently, when the matter was heard on 26.07.2012, the Registrar General submitted a report which revealed that there were 3957 cases, relating to NDPS and Essential Commodities Act, were pending. The reasons for pendency as per report were:-

- (i) Non-execution of long pending Non-Bailable Warrants;
- (ii) Non-service of Summons to the Accused;
- (iii) No steps taken by police to serve fresh Summons and issue proclamation notice and
- (iv) Delay in producing witnesses.

4. The Copy of the report was directed to be handed over to the learned Advocate General with a direction to the Director General of Police to file an affidavit giving reasons as to why the Non-bailable warrants are not executed within time, why summons and notices to the accused are not served and witnesses are not produced by the Police on the date fixed; further to state the measures that has taken or likely to be taken to reduce the pendency of those criminal cases. Subsequently, the matter was not listed and it appears that the petitioner also did not evince any interest. When the matter was heard on 03.06.2015, this Court directed a status report to be filed within a period of four weeks, which was filed on 08.07.2015.

5. Upon perusal of the report the following order was passed:-

The petitioner appearing in person prays for two weeks time to file rejoinder.

2. On a perusal of the chart submitted by the NCB/first respondent, we find that in a number of cases, the accused are absconding and have not been re-arrested and thus, the trial is not proceeding. Learned Assistant Solicitor General states that once the accused are enlarged on bail, it is found that their addresses are fictitious. We find this strange, for the reason that the authorities are duty bound to have verified before as to whether the address disclosed is accurate or not. In this behalf, learned counsel will look into the matter and makes his submissions on the next date. We also call upon the Registrar General, High Court, to file a further affidavit explaining as to how many courts are vacant and whether there is shortage of the Prosecutors. The affidavit be filed within two weeks.

3. List on 19.08.2015.

A copy of the order be issued to the Registrar General and the first respondent.

6. Subsequently, the matter was heard on 19.08.2015 and we have perused the reports placed before us as well as the rejoinder affidavit filed by the petitioner to the counter affidavit of the second respondent. The status report submitted by the Ministry of Home Affairs, NCB, Chennai, Zonal Unit, shows that there are 17 cases pending for trial at Chennai; six at Madurai; one in Pudukottai; one in Salem. The report further states that three cases are pending before the Special Court at Tiruvandram and one in Kasaragod, Kerala State. From the additional affidavit filed by the Superintendent, Ministry of Home Affairs, NCB, Chennai Zonal Unit, it is seen that barring few cases where accused are shown, as 'not arrested', is due to the reason that the details of those accused persons were not given by arrested accused at the time of giving voluntary statement, except mentioning names and in some cases with the place. It is stated that the reason for not being able to arrest certain accused, is due to non-availability of details. Therefore, the cases have been split up and the trial is in progress as against the accused, who has been arrested. Further, the affidavit states that in few cases after securing bail, accused shift their addresses and place of residence and go absconding and the Department has been maintaining constant vigil to arrest such of those absconding accused. Therefore, it is submitted that there is no laxity on the part of the agency (NCB) in discharging their duties and responsibilities.

7. The reports submitted by the Principal Special Judge, Special Court under Essential Commodities and NDPS Act, Chennai as well as Judge incharge of first and second Additional Special Court under NDPS Act and the District Session Judge, Communal Cases Court, Madurai have been compiled as a typed set of papers and filed by the Registrar General. In the compilation, copy of the Government Order

in G.O.Ms.No.665, dated 09.07.2011 has been filed, which shows that the list of Law Officers appointed to function as Public Prosecutors/ Special Public Prosecutors in various Courts including the Special Courts.

8. We have perused the reports submitted by the Special Courts. In the rejoinder filed by the petitioner, she appears to have expressed grievance against a particular Public Prosecutor and there is nothing worthwhile in the rejoinder. After perusing the entire materials placed before this Court, it is seen that the Special Courts have been proceeding with the trial and wherever the accused are not able to be secured the trial of those cases have been split up and has been proceedings as against those accused, who have been arrested.

9. We are satisfied with the reports submitted before us and in the facts and circumstances, no further directions are required to be issued and the Writ Petitions stands disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

pbn

To

1.Union of India,
Rep., by Home Secretary,
Home Department,
Parliament House,
New Delhi.

2.The Home Secretary,
Government of Tamil Nadu,
Home Department,
Fort St., George,
Chennai - 600 009.

+1 cc to Mrs.Mamta Pandey, Advocate, sr.44959
+1 cc to Mr.Su.Srinivasan, Advocate, sr.45058
+2 cc to Mr.V.Kanakarayan, Advocate, sr.45844
+1 cc to The Government Pleader, sr.45109

tej(co), kra(2/9)

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