



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

CRL.RC. (MD) No.16 of 2015

L.Nirmal : Petitioner/Defacto Complainant

Vs.

1.The State, rep by
The Sub-Inspector of Police,
Lalgudi Police Station,
Trichy District, Crime No.282 of 2009.

2.Nagaiyan, S/o.Sangili
3.Sasikala, W/o.Nagaiyan
4.Surendhar, S/o.Nagaiyan
5.Saran, S/o.Nagaiyan
6.Tamilarasan, S/o.Sangili
7.Malathi, W/o.Tamilarasan : Respondents/Complainant and
Accused 1 to 6

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed in S.T.C.No.356 of 2010, dated 05.07.2012, on the file of the Judicial Magistrate, Lalgudi, Trichy District and set aside the same.

For Petitioner : Mr.N.Subramani
For Mr.V.Illanchezian
For Respondent No.1 : Mr.C.Ramesh

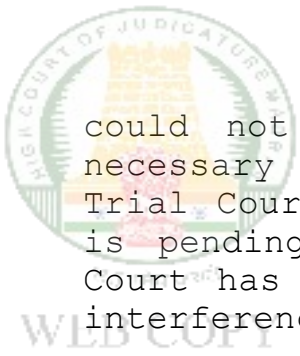
O R D E R

The petitioner herein is the *de facto* complainant and aggrieved by the impugned order, dated 05.07.2012, passed by the Trial Court in dropping further proceedings under Section 258 of the Code of Criminal Procedure and discharge of the accused, has filed this Criminal Revision Case.

2. The respondents 2 to 6 herein were prosecuted for the commission of offences under Sections 147, 341, 323 and 294(b) of the Indian Penal Code and there is also a connected case in S.T.C.No.357 of 2007, wherein the second respondent herein is cited as one of the witnesses and it is pending on the file of the very same Court.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned counsel appearing for the petitioner would submit that though, according to the first respondent, summons



could not be served on the Accused No.4 and they have taken necessary steps to get bailable warrant/non-bailable warrant, the Trial Court has discharged all the accused stating that the case is pending for a long time without any progress and the Trial Court has not exercised its jurisdiction, properly and prays for interference.

4. Per contra, Mr.C.Ramesh, learned Additional Public Prosecutor for the first respondent, on going through the case diary, made a submission that the summons could not be served on the Accused No.4 for a quite some time and he would advise the first respondent to take necessary steps to get bailable/non-bailable warrant to secure his presence so as to enable the Trial Court to proceed further in the case in S.T.C.No.356 of 2010, pending on its file.

5. This Court, on going through the impugned order, is of the view that the Trial Court ought to have taken necessary steps to secure the presence of Accused No.4 either by issuing bailable warrant or non-bailable warrant. However, the Trial Court has not done so and at one stroke has discharged all the accused under Section 258 of the Code of Criminal Procedure.

6. In the result, the Criminal Revision Case is allowed and the impugned order dated 05.07.2012, made in S.T.C.No.356 of 2010, is set aside and the first respondent shall take necessary and expeditious steps to issue either bailable or non-bailable warrant to secure the custody of Accused No.4 so as to enable it to proceed further in the matter.

Sd/-

Assistant Registrar(Per.Admn)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Judicial Magistrate, Lalgudi, Trichy District.
 - 2.Do through the Chief Judicial Magistrate, Trichy District
 - 3.The Sub-Inspector of Police, Lalgudi Police Station, Trichy District.
 - 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +One cc to Mr.V.Illanchezian, Advocate, SR.No.13637

NB

RL/6c - 31/3/2015

ORDER MADE IN
CRL.RC.(MD)No.16 of 2015