

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

-

CRIMINAL PETITION No.3639 of 2015

ORDER:

This criminal petition is filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, 'the Code') by the petitioner, who is arraigned as sole-accused in C.C.No.334 of 2013 on the file of II Additional Judicial Magistrate of First Class, Nellore, SPSR Nellore District, requesting to expedite hearing in CrI.M.P.No.2597 of 2014 in the above calendar case.

2. The facts would reveal that the 2nd respondent herein being the Tahasildar, has lodged a complaint under the instructions of the District Collector, Nellore, concerning missing of OC document pertaining to an extent of 33 1/3 akanams in Survey No.2058/1 belonging to the second witness, i.e., L.W.2, from the office of Tahasildar, Nellore. It was alleged that prior to 07.07.2010, a fake document was created forging the signature of the then Tahasildar by the petitioner in her favour to grab the said site. When L.W.2 approached the Court and filed a civil suit in O.S.No.6060 of 2010 against the petitioner herein, the Court summoned L.W.5- Tahasildar to depose his evidence, he attended the Court on 28.04.2009 and identified the OC document, which was stolen document and forged, which was spoken to by him as a witness before the Court. The *de facto* complainant under the instructions of the District Collector, caused an enquiry and submitted a report to the police, and, thus, the instant F.I.R. was registered, and later, on completion of investigation, charge sheet was filed and the matter was pending before the aforesaid learned Magistrate Court. In the meanwhile, the petitioner approached this Court by filing Criminal Petition No.8645 of 2014 to quash the proceedings in the instant calendar case, i.e., C.C.No.334 of 2013. This Court, while disposing of the said petition, granted liberty to the petitioner to move the trial Court for discharge and even the presence of the petitioner before the trial Court was dispensed with for a period of three weeks to enable the petitioner for approaching the trial Court for appropriate relief. The said liberty was exercised by the petitioner herein by filing CrI.M.P.No.2597 of 2014 under Section 239 of the Code requesting to discharge her from the criminal proceedings in the said calendar case. Since the matter was being

postponed from time to time, the instant petition is filed to expedite hearing in the said petition.

3. Heard both sides.

4. Learned counsel for the petitioner submits that on one reason or the other, the learned Magistrate has been postponing the disposal of the CrI.M.P.No.2597 of 2014, and, therefore, seeks a direction to expedite hearing in the said petition and dispose of the same.

5. Learned Additional Public Prosecutor requested time to seek instructions as to the reasons why the Public Prosecutor could not file counter.

6. The docket proceedings sheet is filed in the said CrI.M.P., which shows that the petition was filed on 08.10.2014, it came up for hearing on 17.10.2014 and it was adjourned on the request of learned counsel for the accused on 27.10.2014. Thereafter, for five consecutive adjournments the Presiding Officer was availing casual leave. Thereafter, learned Additional Public Prosecutor requested time for filing counter. Thus, till 26.03.2015, it appears that counter was not filed. Keeping in view, the direction given by this Court in Criminal Petition No.8645 of 2014, certainly, a direction, now sought by the petitioner, can be acceded to.

7. Hence, the learned II Additional Judicial Magistrate of First Class, Nellore, is directed to dispose of the CrI.M.P.No.2597 of 2014 within two months from the date of receipt of the order of this Court. The Additional Public Prosecutor shall file counter within 15 days from the date of receipt of the order of this Court.

8. With the above directions, the criminal petition is disposed of.

9. As a sequel thereto, miscellaneous petitions, if any pending in this petition, shall stand closed.

A. SHANKAR NARAYANA, J

29th April, 2015

siva