

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.13244 of 2016

1.Rajesh Kumar
2.Chokkammal
3.Hema Latha Petitioners/A-1 to A-3

Vs

State rep by its,
The Inspector of Police
D-1, Thiruttani Police Station,
Thiruvallur District. Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Learned Judicial Magistrate at Thiruttani to dispose of the C.C.No.319 of 2009 within a stipulated period in accordance with law.

For Petitioners: Mr.D.Dayalan
For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This petition has been filed to direct the Learned Judicial Magistrate at Thiruttani to dispose of C.C.No.319 of 2009.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

3. The petitioners are accused and are facing trial in C.C.No.319 of 2009 before the Judicial Magistrate, Tiruttani for offences under Sections 341, 294(b), 323, 325 & 506(ii) I.P.C. and they have approached this court for direction to the trial Court to complete the trial expeditiously.

4. This Court called for a report from the Learned Judicial Magistrate, Tiruttani and a report dated 20.07.2016 has been received, wherein the Learned Magistrate has stated that, there are two cases between the parties in C.C.No.319 of 2009 and C.C.No.320 of 2009 and the report reads as under:-

"I humbly submit your honour that the case in C.C.No.319/2009 for an offence u/s 341,294(b),323,324@325, 506(ii) IPC is being called for cross examination of PW1 from 2011. PW1 was not produced before this court till 23.05.2016. Subsequently defense counsel in C.C.No.319/2009 filed an memo stating transfer original petition was filed before the Hon'ble Chief Judicial Magistrate at Tiruvallur. This court is awaiting for an order in transfer original petition".

The case in C.C.No.320/2009 for an offence u/s 341,323,324,506 (ii) IPC is being called for summons to listed witness 4 and listed witness 5. The complainant as PW1 was examined only on 17.02.2015. Subsequently witness not produced in C.C.No.320/2009. On 05.05.2016 PW2 was chief examined and on 12.05.2016, PW3 was Chief Examined. It is further submitted that both the complainants in C.C.No.319/2009 and 320/2009 are from police department. It is not out of place to mentioned that there was no cooperation on the side of both complainants and further prosecution witness was not duly produced before this court. Further from 23.05.2016 this court is awaiting for an order in transfer original petition No.1960/2016.

I humbly submit your honour both the Calendar Cases are being called before the court periodically for consideration. Whereas witness were not produced on specified dates. Now transfer Original petition is pending. For the said reasons alone both the C.C.319/2009 and C.C.320/2009 could not be disposed in time by the Judicial Magistrate Court at Tiruttani.

5. From a reading of the report it is seen that the defence counsel has filed a memo in C.C.No.319 of 2009 stating that he has filed transfer application before the Chief Judicial Magistrate, Tiruvallur and therefore, the trial Court is not proceeding further with the case.

6. The High Court has issued a circular to all the trial Courts in the Tamil Nadu State, not to adjourn the cases on the memo filed by a party that they have approached a superior Court without there being a stay of further proceedings by the superior Court.

7. Under such circumstances, the Judicial Magistrate, Tiruttani is directed to ignore the memo filed by the defacto complainant in C.C.No.319 of 2009 unless there is an order of stay of all further proceedings. Learned Chief Judicial Magistrate, Tiruvallur is directed to dispose of any transfer application filed in respect of C.C.No.319 of 2009, on the file of the Judicial Magistrate, Tiruttani, expeditiously within a

period of 3 months from the date of receipt of copy of this order.

8. From the report it is seen that, the accused in both the cases are police officers and therefore witnesses are not being produced by the respondent police. The Superintendent of Police is directed to ensure that, the witnesses are produced before the trial Court so as to enable the trial Judge expeditiously complete the trial in both the cases.

9. With the above observation, the Learned Judicial Magistrate, Tiruttani is directed to complete the Trial in C.C.No.319 of 2009 and 320 of 2009 within six months from the date of receipt of a copy of this order, provided there is no stay granted by any court superior to the Judicial Magistrate, Tiruttani. The accused shall cross examine the witness on the same day they are examined-in-chief as held by the Supreme Court in Vinoth Kumar v. State of Punjab [2015(1) MLJ (Crl) 288]. In the event of the accused adopting any dilatory tactics, the trial Court shall remand him to custody as held by the Supreme Court in State of Uttar Pradesh V. Shambu Nath Singh [JT 2001 (4) SC 319].

With the above direction, this petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

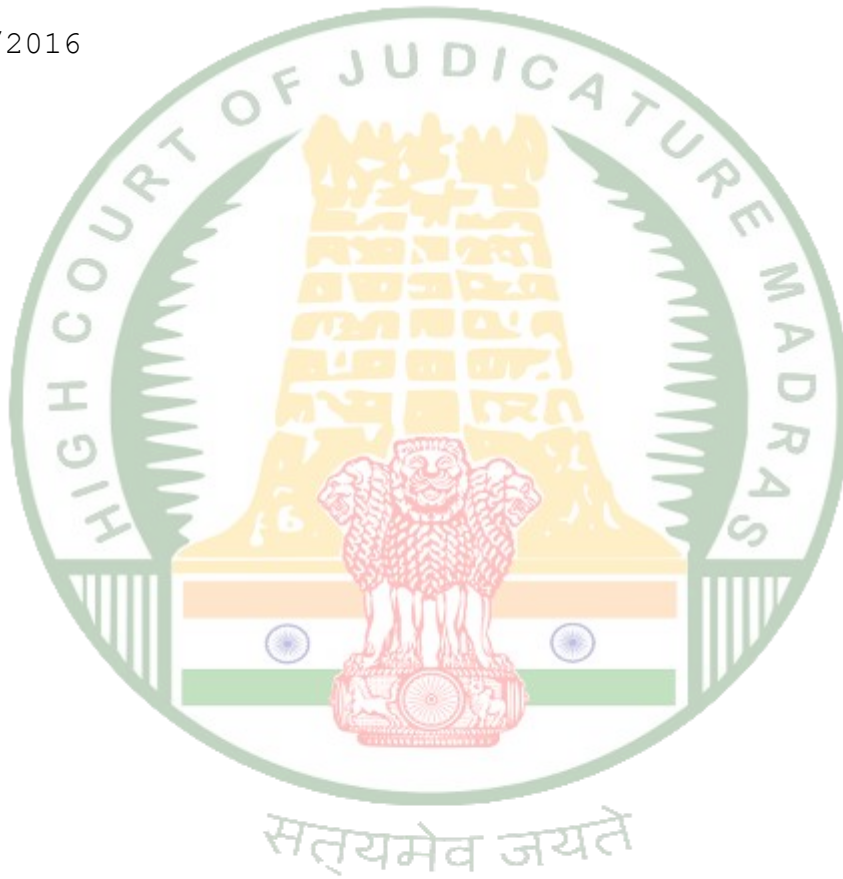
- 1.The Judicial Magistrate
Tiruttani.
- 2.The Chief Judicial Magistrate,
Tiruvallur.
- 3.The Inspector of Police
D-1, Thiruttani Police Station,
Tiruvallur District.
- 4.The Public Prosecutor,
High Court, Madras.

5.The Superintendent of Police,
Thiruvallur.

+1cc to M/S.D.Dayalan, Advocate Sr.51161

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srg 20/09/2016



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