

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.19327 of 2016

1. Kali @ Kalyanasundaram @ Chingai  
Sundaram @ Suresh
- 2.Venkatesh @ Venkatesan
- 3 Pasupathi
- 4.Iyyappan @ Vellai Iyappan ... Petitioners/Accused 1,3,5 & 17

Vs

State by Inspector of Police  
G-7. Chunambedu Police Station,  
Madurantakam Taluk  
Crime No.234 of 2001. ... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the learned Additional Sessions Judge/Fast Track Court - I, Chengalpattu to couple the case in S.C.No.32 of 2011 along with the case in S.C.No.141 of 2008 for a joint trial and to dispose of the above cases within a time frame to be fixed by this Hon'ble Court.

For Petitioners : Mr.B.Nambiselvan

For Respondent : Mr.B.Ramesh Babu  
Government Advocate

ORDER

This criminal original petition has been filed seeking a direction to the learned Additional Sessions Judge/Fast Track Court - I, Chengalpattu to couple the case in S.C.No.32 of 2011 along with the case in S.C.No.141 of 2008 for a joint trial and to dispose of the cases.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondent.

3. In a double murder cases, which occurred as early as on 07.05.2001, the respondent police registered a case in Crime No.234 of 2001 and after completing the investigation, they have

filed a final report in PRC No.53 of 2002 before the Judicial Magistrate, Madurantakam against 19 persons. During the committal proceedings, several accused were deliberately absenting, on account of which, the committal Magistrate had to split up the case and commit the case to the Court of Sessions. Now, the cases are pending in S.C.No.141 of 2008 and S.C.No.32 of 2011 before the Additional District and Sessions Judge, Chengalpattu.

4. On a direction of this Court, the Additional District and Sessions Judge, Chengalpattu, has sent a report dated 22.09.2016, the relevant portion of which is extracted below:

" I further humbly submit that out of the 19 accused in S.C.No.141 of 2008, since some of the Accused viz., A1 to A4, A6 to A8, A10, A11, A14 to A16 were not present and NBW was pending against them the case was further split up as against the said Accused as SC No.32/2011. When the charges has to be framed in SC.No.141/2008 against the remaining 7 Accused once again A6 was absent and NBW has been ordered to be issued against him and it is pending for execution till date.

Further, I humbly submit that since directions were issued to the police authorities to execute the NBW's pending in both the cases, some of the Accused viz., A1, A3, A4, A5 and A7 in SC.No.32 of 2011 have surrendered before this Court and the warrant against them were recalled. Even then NBW is pending as against the most of the Accused in SC 32 of 2011 and NBW as against A6 is pending in SC 141/2008 both the cases could not be proceeded further.

Therefore, I respectfully submit that due to the aforesaid circumstances both the cases could not be proceeded with.

This is for your Honours kind information."

5.The learned counsel appearing for the petitioners submitted that as regards Kali (A1), he is already a life convict and is in prison and undergoing life sentence in another case. As regards Venkatesh @ Venkatesan (A3) and Pasupathi (A5), they are regularly attending the trial Court.

6. From the above report, it is seen that still several accused are absconding. Therefore, this Court directs the

Superintendent of Police, Kancheepuram to form a special team to arrest all the absconding accused immediately and produce them before the Additional and Sessions Court, Chengalpattu.

7. If an accused already released on bail absconds, yet, a fresh FIR can be registered under Section 229 - A IPC. This Court directs the respondent police and the Additional District and Sessions Judge, Chengalpattu, to register a fresh FIR in respect of all the absconding accused under Section 229-A IPC, which is a cognizable and a non bailable offence. Thereafter, the trial Court shall explore the possibility of merging SC.No.32/11 and SC.No.141/08 and conduct trial, as both the cases arise from Crime No.234 of 2001 and on account of absconding of accused, the case had been split up.

With the above directions, this criminal original petition is ordered accordingly.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Inspector of Police  
G-7. Chunambedu Police Station,  
Madurantakam Taluk.
2. The Additional District and Sessions Judge/  
Fast Track Court - I, Chengalpattu.
3. The Superintendent of Police,  
Kancheepuram.
4. The Public Prosecutor,  
High Court, Madras.

cnr(co)  
yj(12/11/2016)

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