

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.O.P. No.19584 of 2016

Sivasaravanan

Petitioner

vs.

State represented by
the Inspector of Police
W-30 All Women Police Station
Poonamallee
Thiruvallore District

Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to direct the Judicial Magistrate No.1, Poonamallee to dispose of the case in C.C. No.236 of 2012 within a time frame.

For petitioner Mr. V.R. Ramesh

For respondent Mr. C. Emalias
Addl. Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to direct the Judicial Magistrate No.1, Poonamallee to dispose of the case in C.C. No.236 of 2012 within a time frame.

2 Heard both sides.

3 On the complaint lodged by one Rasindarupa, the respondent police registered a case in Crime No.10 of 2012 and after completing the investigation, have filed a final report before the Judicial Magistrate Court No.I, Poonamallee in C.C. No.236 of 2012 under Sections 498-A and 506(I) IPC @ 498-A and 506(I) IPC read with Section 4 of the Dowry Prohibition Act against Sivasaravanan (A1), Balasubramaniasivan (A2), Uma Devi (A3) and Sivakumaran (A4). While so, Sivasaravanan (A1) has come up with this petition for a direction to the Judicial Magistrate No.I, Poonamallee, to complete the trial in C.C. No.236 of 2012 within a time frame.

4 This Court called for a report from the Judicial Magistrate Court No.I, Poonamallee, who has sent a report dated

15.09.2016, wherein, it is stated as follows:

"It is respectfully submitted that originally this case was taken file on 26.07.2012 and same was numbered as CC No.236/2012 on the file of this Court. Since the accused A1 was shown as absconding accused the trial court had issued NBW to A1 and A2 to A4 had obtained anticipatory bail on 11.04.2016 in CrI.O.P. No.9021 of 2012 before the Hon'ble High Court of Madras and furnished the sureties before the Trial Court. As such fresh summons was issued to A2 to A4 and the matter was posted on 16.08.2012 for first hearing. Thereafter none of the accused appeared before the Trial Court till 03.06.2016. On 10.06.2016, A1 was arrested and produced before the Trial Court and he was remanded to judicial custody till 24.06.2016. A1 was arrested and produced before the Trial Court and he was remanded to judicial custody till 24.06.2016. In the mean time he moved the bail application before the trial court and he was granted bail on 14.06.2016 in Cr.M.P. No.3891/2016. Subsequently, he furnished sureties before the trial court on 15.06.2016. Thereafter, the matter stands posted on 24.06.2016, 30.06.2016, 14.07.2016, 28.07.2016, 18.08.2016 and 01.09.2016 respectively.

On the respective hearing dates A2 and A4 never appeared before the trial court and A1 was present. On 01.09.2016, the counsel for A1 filed the petition u/s 317(2) of Cr.P.C. and prayed the trial court to split up the case. As such, the case was split up has against A2 to A4 and numbered as CC 134/2016 on the file of this Court. Thereafter, the matter was posted for further proceedings on 15.09.2016. On 15.09.2016 accused (A1) namely Sivasaravanan was present, copies u/s 207 Cr.P.C. was furnished to him and the matter was posted on 19.09.2016 for further proceedings. It is respectfully submitted since all the accused have failed to appear before this Court for a long time, the trial court is unable to proceed with the trial and to dispose of the same within the stipulated time as directed by the Hon'ble High Court Madras."

5 From a reading of the aforesaid report, it is obvious that the accused were all absconding and that this petitioner was arrested and remanded to custody on 24.06.2016 and thereafter, he has been released on bail and now, the case has been split up as against this petitioner.

6 Under such circumstances, the Trial Court is directed to expeditiously conduct trial as against the petitioner and dispose of the same within a period of eight months from the

date of receipt of a copy of this order, provided the petitioner cooperates by engaging a counsel and cross-examines the witnesses on the date they are examined-in-chief as directed by the Supreme Court in *Vinoth Kumar vs. State of Punjab* [2015 (1) MLJ Cr1.288]. If the petitioner absconds, a fresh FIR can be registered against him under Section 229-A, IPC. If the petitioner adopts any dilatory tactics, he shall be remanded to custody as laid down by the Supreme Court in *State of Uttar Pradesh vs. Shambhu Nath Singh* [JT 2001 (4) SC 319].

With the above said directions, this Criminal Original Petition is closed.

Sd/-
ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

1 The Inspector of Police
W-30 All Women Police Station
Poonamallee
Thiruvallore District

2 The Judicial Magistrate No.1
Poonamallee

3 The Public Prosecutor
Madras High Court
Chennai 600 104

Cr1.O.P. No.19584 of 2016

GJ(CO)
MMP 12.11.2016

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