

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2016

CORAM:

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

Crl.O.P. No.20649 of 2016

M. Srinivasan

... Petitioner

Vs.

1.R. Balakrishnan

2.T. Narayanan

3.A. Madanagopal

4.D. Rajasekaran

... Respondents

(The Respondents 2 to 4 are quashed as per order in Crl.O.P.38000 of 2004 dated 25.08.2008. Hence notice may be dispensed with)

Criminal Original Petition filed under Section 482, Cr.P.C. seeking to direct the XI Metropolitan Magistrate, Saidapet, Chennai to dispose of the case in C.C. No.7537 of 2004 within a time frame.

For petitioner : Mr. R. Jayaprakash

ORDER

This Criminal Original Petition has been filed seeking to direct the XI Metropolitan Magistrate, Saidapet, Chennai, to dispose of the case in C.C.No.7537 of 2004 within a time frame.

2. Pursuant to the order dated 15.09.2016 passed by this Court in this Criminal Original Petition, the XI Metropolitan Magistrate, Saidapet, Chennai, has sent a detailed report dated 27.09.2016, explaining the reasons for the delay in completion of trial in C.C. No.7537 of 2004.

3. On a reading of the said report, it is clear that the delay is essentially due to the non-cooperation of Srinivasan, the petitioner herein and one R. Balakrishnan, the first

accused. The relevant portion of the said report is extracted as under:

"Things being so, on 08.01.2015, the accused filed a discharge petition u/s 239 Cr.P.C. vide Cr.M.P. No.58 of 2015 and the same is pending for consideration.

In the mean time, the son of original complainant A.D. Jai kannan, S/o Late A.N. Damodharan moved a "Substitution Petition" vide Cr.M.P. No.2710 of 2015 seeking for relief to replace him in the place of present complainant "M. Srinivasan".

Both Cr.M.P. No.58 of 2015 and 2710 of 2015 are pending for adjudication, since the parties repeatedly took adjournments.

The litigants frequently moved various petitions with different relieves. The docket sheet reveals that the matter is halted at initial stage since the litigants especially the accused moved several petitions and revisions and also obtained stay from the superior courts.

After I assuming the post, I have instructed the counsels appearing for the litigants to speed up the enquiries. However, the parties offering plausible reasons and getting adjournments. Due to the conduct of the parties as mentioned supra, the case is pending for long time, especially at the stage of Section 239 Cr.P.C."

4. In a private complaint procedure, Section 239, Cr.P.C. will not get attracted. It is for the complainant to adduce evidence under Section 244, Cr.P.C. and only thereafter, the question of framing of charges or discharge will arise.

5. The Trial Court is directed to obtain a bond for Rs.10,000/- from Balakrishnan (A1) under Section 88 Cr.P.C. without sureties and if he absconds thereafter, a fresh FIR can be registered against him under Section 229-A, Cr.P.C. If the accused does not cooperate, he may be remanded to custody in the light of the law laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. The Trial Court is directed to complete the case in C.C. No.7537 of 2004, within a period of 8 months from the date of receipt of a copy of this order, provided the complainant produces his witnesses and there is no legal impediment.

With the above directions, this Criminal Original Petition stands closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cad

To

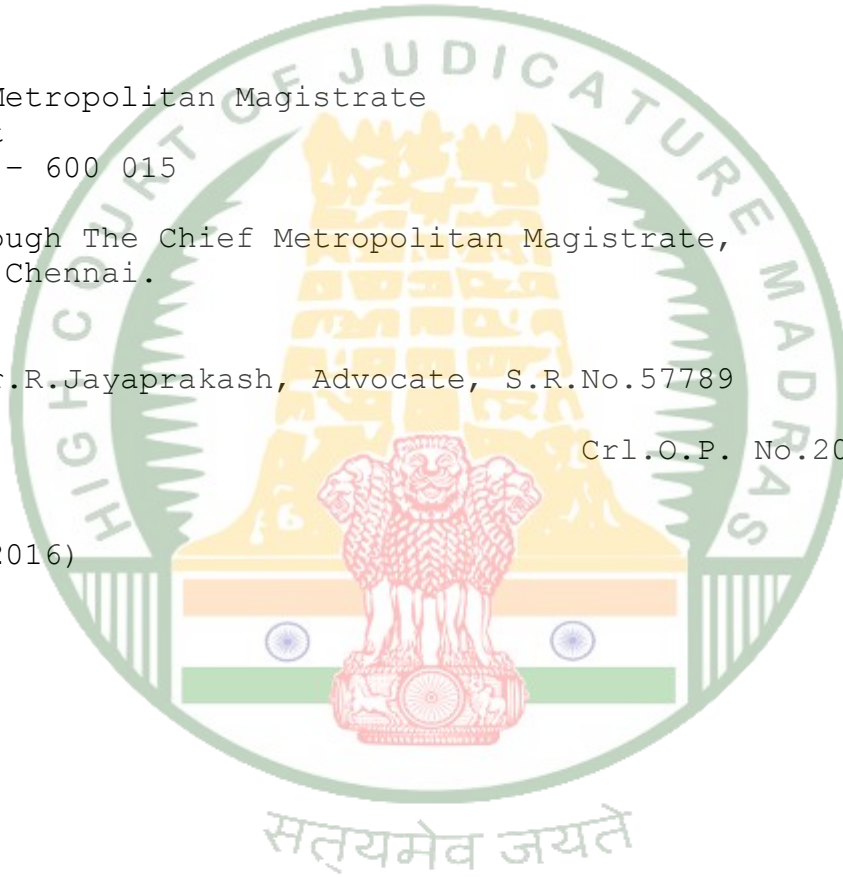
1.The XI Metropolitan Magistrate
Saidapet
Chennai - 600 015

2.Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai.

+1cc to Mr.R.Jayaprakash, Advocate, S.R.No.57789

Crl.O.P. No.20649 of 2016

VD(CO)
CA(24/10/2016)



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