

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.OP.No.21324 of 2016
and Crl.MP.Nos.9877 & 9878 of 2016

1.Suguna
2.Moorthy

...Petitioners/Accused 1 & 2

vs.

1.The State rep by
The Inspector of Police,
Tiruvannamalai Town Police Station
Tiruvannamalai District.

2.Meera. ...Respondents/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order of the learned Sessions Judge, Tiruvannamalai, Tiruvannamalai District made in Crl.M.P.No.4143 of 2015 in S.C.58 of 2007 dated 11.03.2016 in dismissing the petition filed by the petitioners herein under section 91 Cr.P.C.

For Petitioners : Mr.L.Mahendran

For Respondents : Mr.C.Emalias, APP for R1

O R D E R

This petition has been filed to set aside the order of the learned Sessions Judge, Tiruvannamalai, Tiruvannamalai District made in Crl.M.P.No.4143 of 2015 in S.C.58 of 2007 dated 11.03.2016 in dismissing the petition filed by the petitioners herein under section 91 Cr.P.C.

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

3. It is seen that these petitioners are facing trial in SC No.58/07 before the Sessions Judge, Tiruvannamalai, for offence u/s.302 IPC. The petitioners filed an application in Crl.M.P.No:4143 of 2015 in S.C.58 of 2007 for a direction to call for the following records:

“(i) The Accident Register book from 29.03.2003 to 31.03.2003
(ii) The General Diary of Tiruvannamalai Town Police Station
for the period from 29.03.2003 to 01.04.2003.”

The said petition was dismissed by the trial Court on 11.03.2016, challenging which the accused are before this Court.

4. It is seen that the offence in this case had taken place on 29.03.2003 and the case was registered in Crime No.429 of 2003 and after investigation, the final report was filed before the jurisdictional Magistrate in PRC 1 of 2004 and after committal to the Court, of Sessions, it has been numbered as S.C.No.58/07, from 2007 to 2016, the trial has been delayed for the reasons best known to this court by the accused.

5. However, even in the petition filed u/s/91 Cr.P.C., the petitioner has not made out a case, as to whether the documents called for are relevant for the just decision of the case. In Debendranath Padi Vs. State of Orissa (2003) 2 SCC 711, the Supreme Court has held that a petition u/s.91 Cr.P.C. cannot be invoked for making fishing enquiry.

6. That apart, the petitioner is calling for the accident register and general diary of the year 2003. The existence or otherwise of it is under doubt. Thus, this Court finds that, the petition has been filed to protract the trial. Hence, this petition is dismissed with a direction to the trial court to complete the trial within six months from the date of receipt of a copy of this order.

7. The trial Court shall ensure that the accused cross examine the witness on the day they are examined in chief as directed by the Supreme Court in Vinod Kumar Vs. State of Punjab [2015(1) MLJ (Cr1)288]. If the accused adopts dilatory tactics they can be remanded to custody as held by the Supreme Court in State of Uttar Pradesh v. Shambu Nath Singh [JT 2001 (4) SC 319]. If the accused abscond, a fresh FIR u/s.229 A IPC should be registered against them.

Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

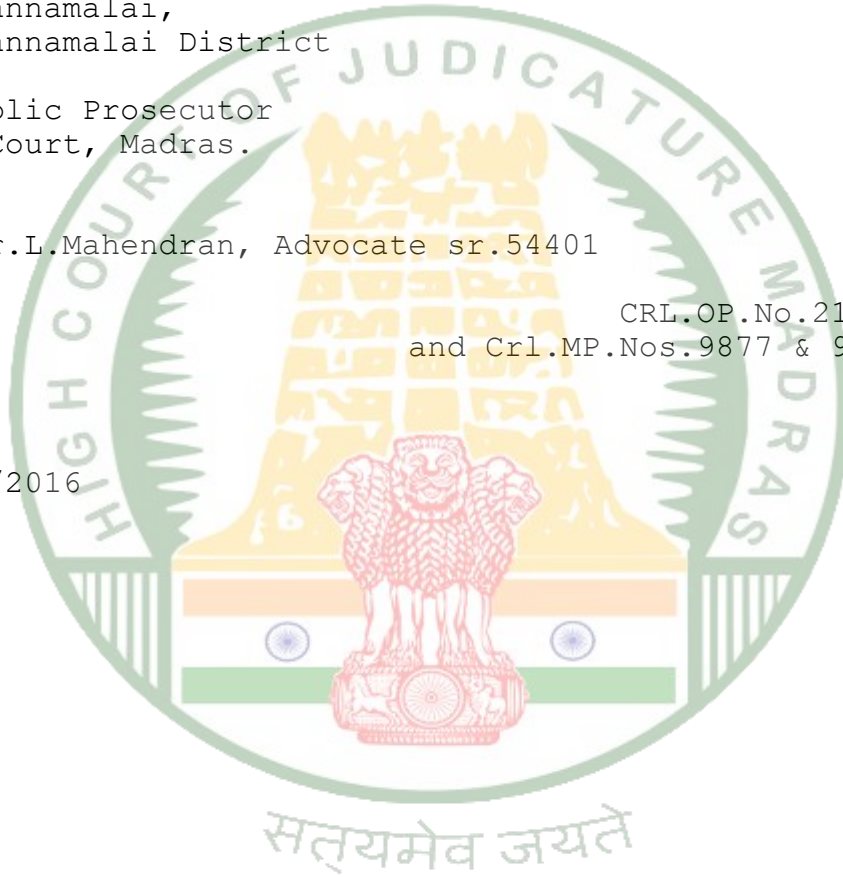
To

- 1.Sub Inspector of Police,
Tiruvannamalai Police Station.
Tiruvannamalai.
- 2.The Inspector of Police,
Tiruvannamalai Town Police Station
Tiruvannamalai District.
3. The Sessions Judge,
Tiruvannamalai,
Tiruvannamalai District
4. The Public Prosecutor
High Court, Madras.

+lcc to Mr.L.Mahendran, Advocate sr.54401

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srg 03/11/2016



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