

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.21828 of 2016

K.Raju @ Raji

... Petitioner

Vs.

1. State rep. by
The Inspector of Police,
District Crime Branch,
Vellore, Vellore District.

2. R.Krishnamurthy

3. Y.Naushath

4. Nazeer

5. Gunasekaran

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the learned Judicial Magistrate-II, Vellore, Vellore District to dispose of the complaint in C.C.No.108 of 2011.

For Petitioners : Mr.M.Sathish kumar

For Respondent-1 : Mr.C.Emalias
Additional Public Prosecutor

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O R D E R

This Criminal Original Petition has been filed by the petitioner, seeking a direction to the learned Judicial Magistrate-II, Vellore, Vellore District to dispose of the complaint in C.C.No.108 of 2011.

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

3.Mr.A.V.Ragupathy, the Sub-Inspector of Police, District Crime Branch, Vellore, is present today.

4.Pursuant to the order of this Court dated 27.09.2016, the learned Judicial Magistrate-II, Vellore has sent a report dated 03.10.2016 which is as follows:

"It is humbly submitted that the order dated 27.09.2016 in reference No.1 has not been received by this Court. Further, the entire material records in C.C.No.108 of 2011 has been sent to the Hon'ble High Court of Madras in Crl.R.C.No.1370 of 2011 vide Dis.No.1390/2011 dated 04.11.2011. The above Crl.R.C. had been dismissed by the Hon'ble Justice G.Chockalingam on 23.08.2016. But the material records were not returned to this Court. Since, there is no records on the file of this Court, the case is pending for Await records since 2011. It is humbly submitted that the above stated is the reason for pendency and delay in disposing of C.C.No.108 of 2011. It is humbly submitted that this is for your kind information."

5.From the report, it appears that the original records in C.C.No.108 of 2011 has been sent to this Court in Crl.R.C.No.1370 of 2011 on 04.11.2011 and even after dismissal of Crl.R.C.No.1370 of 2011 on 23.08.2016, the material records were not returned to the trial Court. Therefore, this Court called for a report from the Registry. The Registry has submitted a report, in which, it is stated that the original records in C.C.No.108 of 2011 have been sent to the learned Judicial Magistrate-II, Vellore on 19.10.2016 and the same has been received by the learned Magistrate concerned on 21.10.2016.

6.In view of the above, the learned Judicial Magistrate-II, Vellore is directed to complete the trial, within a period of six months from the date of receipt of a copy of this order, provided the complainant to cooperate with the trial by giving evidence. The accused shall cross examine the witness as directed by the Supreme Court in Vinodh Kumar Vs State of Punjab reported in 2015[1] MCJ [Crl] 288.If the accused is not cooperating to conduct the trial, it is open to the Court to remand to custody/bail can be cancelled as held by the Hon'ble Supreme Court in State of Uttarpradesh Vs Shambu Nath Singh reported in JT 2001[4]SC 319 and if the accused is absconding, a fresh FIR can be filed under Section 299(A) of IPC.

7.With the above observations and directions, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS VII)

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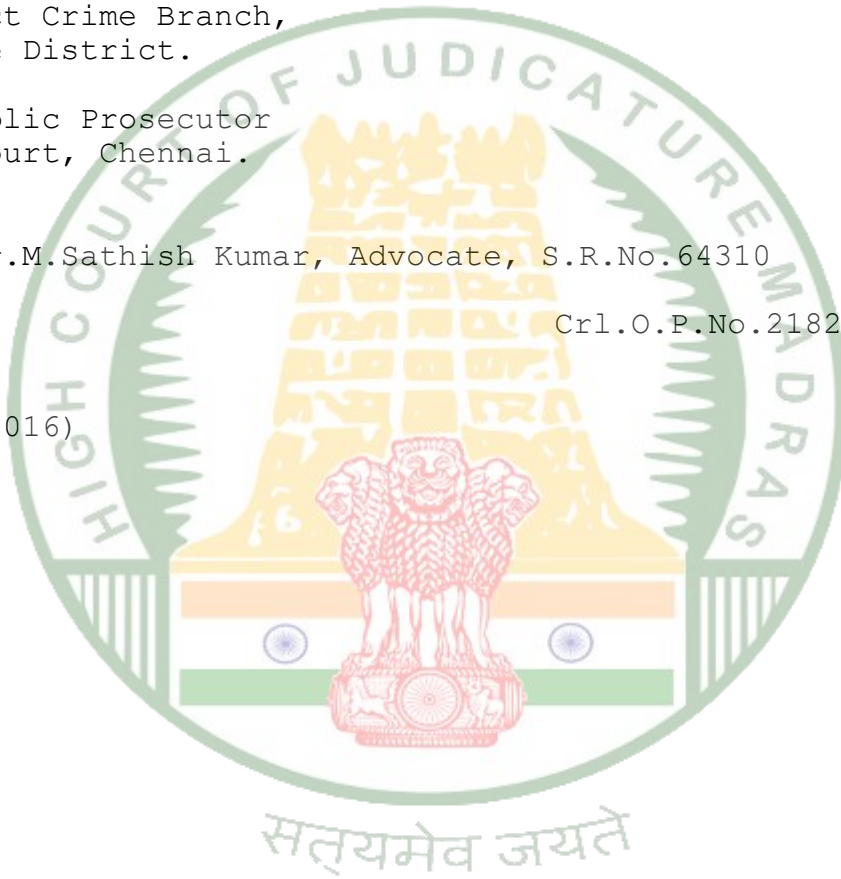
To

1. The Judicial Magistrate-II,
Vellore.
2. Do Through the Chief Judicial Magistrate,
Vellore.
3. The Inspector of Police,
District Crime Branch,
Vellore District.
4. The Public Prosecutor
High Court, Chennai.

+1cc to Mr.M.Sathish Kumar, Advocate, S.R.No.64310

Cr1.O.P.No.21828 of 2016

EV(CO)
CA(05/12/2016)



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