

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

CORAM:

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

Crl.O.P.No.24664 of 2016 &
Crl.M.P. Nos.11854 and 11855 of 2016

1 K. Chandrakala
2 V. Velan
3 K. Karthikeyan

Petitioners
Vs.

State by
the Sub Inspector of Police
All Women Police Station
Gudiyatham
Vellore District

Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure seeking to set aside Judicial Magistrate further proceedings until disposal of this petition and without cross examination of the prosecution witness in C.C. No.70 of 2010 in CMP No.9760 of 2014 dated 23.11.2015 on the file of the Judicial Magistrate Court, Gudiyatham.

For petitioners M/s. B.N. Chandrasekar & M. Ajaykumar
For respondent Mr. C. Emalias
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking the following prayer:

"to set aside Judicial Magistrate further proceedings until disposal of this petition and without cross examination of the prosecution witness in C.C. No.70 of 2010 in CMP No.9760 of 2014 dated 23.11.2015 on the file of the Judicial Magistrate Court, Gudiyatham."

2 It is seen that the petitioners are facing trial in C.C. No.70 of 2010 before the Judicial Magistrate, Gudiyatham. Earlier, the petitioners had filed a quash petition in Crl.O.P. No.12119 of 2016 before this Court and this Court had dismissed the same by order dated 29.06.2016 by directing the Trial Court to complete the trial within a period of six months from the date of receipt of a copy of the order and with a further direction to the accused to cross-examine the witnesses on the date they are examined-in-chief as directed

by the Supreme Court in Vinod Kumar vs. State of Punjab [(2015) 1 MLJ Cr1.288].

3 In the present Criminal Original Petition, it is alleged by the petitioners that the Judicial Magistrate, Gudiyatham examined P.Ws 1 to 5 even after 5.30 p.m. and therefore, they have filed a Transfer Application in Tr. C.M.P. No.414 of 2016 before the Chief Judicial Magistrate, Vellore, which is pending. In the light of the above, the petitioners are seeking the aforestated reliefs.

4 The fact is that this Court directed the Judicial Magistrate, Gudiyatham, to complete the trial within six months and therefore, it is the duty of the Judicial Magistrate, Gudiyatham to comply with the order of this Court. Further, under Section 309, Cr.P.C., once the prosecution witnesses are present, it is the duty of the Trial Court to examine them and they should not be sent back. It is common knowledge that in several cases, the Trial Court will continue with the trial even after the Court hours, which is not illegal, because, witnesses who have come to give evidence, should not be sent back, for, they are performing a public duty by coming and giving evidence in a Court of law.

5 Therefore, this Court does not find any infirmity in the action of the Judicial Magistrate, Gudiyatham. That apart, the petitioner's aforestated prayer cannot be granted when the matter is pending before the Chief Judicial Magistrate, Vellore in Tr.C.M.P. No.414 of 2016.

Under such circumstances, this Criminal Original Petition is liable to be dismissed and is accordingly dismissed with a direction to the Chief Judicial Magistrate, Vellore District to dispose of Tr.C.M.P. No.414 of 2016, expeditiously, if not already disposed of. Connected Cr1.M.Ps. are closed.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cad

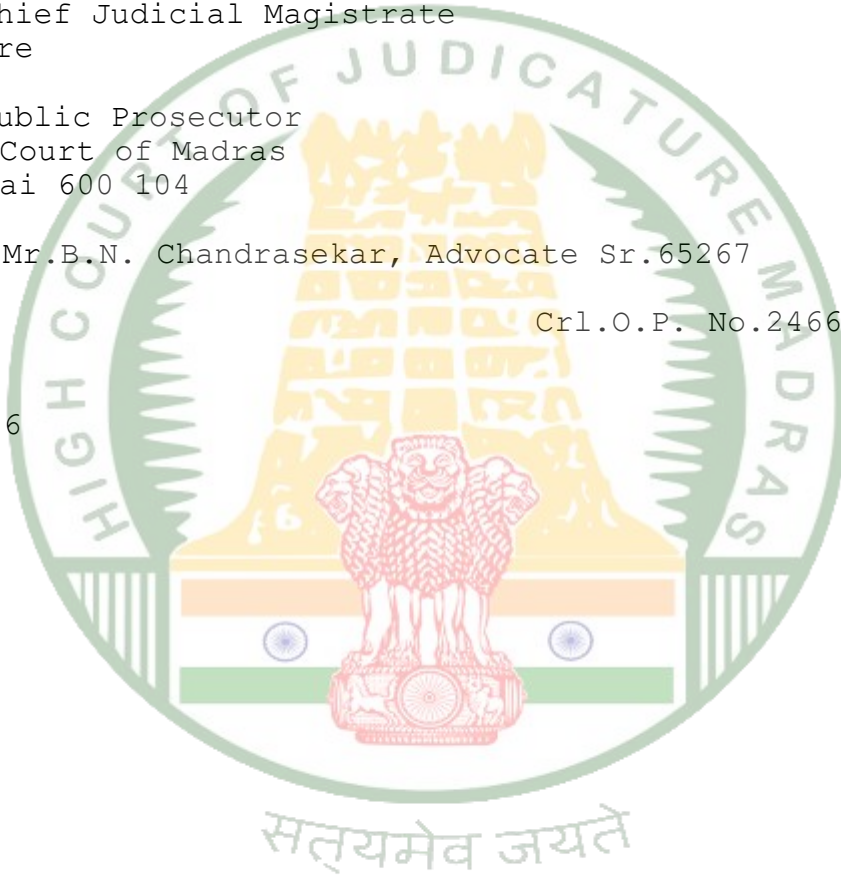
To

- 1 The Sub Inspector of Police
All Women Police Station
Gudiyatham
Vellore District
- 2 The Judicial Magistrate Court
Gudiyatham.
- 3 The Chief Judicial Magistrate
Vellore
- 4 The Public Prosecutor
High Court of Madras
Chennai 600 104

+ 1 cc to Mr.B.N. Chandrasekar, Advocate Sr.65267

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NR(CO)
EU 09.12.16



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