



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.08.2016

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THE HONOURABLE DR.JUSTICE S.VIMALA
Crl.O.P. (MD)No.13938 of 2016

S.Jarina Banu

... Petitioner/defacto complainant/
tenant

-Vs-

- 1.State represented through its
the Inspector of Police,
Aravakurichi Police Station
Karur District.
 - 2.The Inspector of Police,
Velayuthampalayam Police Station
Karur District.
- ... Respondents

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to direct the learned Judicial Magistrate, No.2, Karur to complete the trial expeditiously in C.C.No.159/2015 in Crime No.92/2015 within stipulated time framed by this Court and also further direct the 2nd respondent to give witness protection to the petitioner.

For Petitioner : M/s.K.Samidurai
For Respondents : Mr.A.P.Balasubramani
Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed, seeking direction to the learned Judicial Magistrate, No.2, Karur to complete the trial expeditiously in C.C.No.159/2015 in Crime No.92/2015 and also further direct the 2nd respondent to give witness protection to the petitioner.

2. The case came to be registered on the complaint of the petitioner herein alleging that the accused / owner of the building attacked her brutally, apart from pushing her out of the house and throwing away all the properties of household articles in the street; and that after investigation 2nd respondent filed a charge sheet before the learned Judicial Magistrate No.2, Karur on 22.03.2015.

2.1. On an earlier occasion, the petitioner had filed CrI.O.P. (MD) 6695 of 2016, seeking transfer of the case from learned Judicial Magistrate No.II to any other Court and at that time itself, this Court directed, a) protection to defacto complainant / P.W.1 so as to create free and fair atmosphere for her to give evidence, b) the accused shall cross examine the witnesses on the day of examination (on their examination in chief) as held by the Apex Court in the case of **Vinod Kumar vs. State of Punjab, reported in 2015 (1) MLJ 288 (SC)**, c) if the accused adopts any dilatory tactics, it is open to the Trial Court to remand them to custody as per Section 309 Cr.P.C., and also as per the decision reported in **2001 (4) SCC 667 (State Of Uttar Pradesh v. Sambunath Singh)**.

3. Despite the elaborate guidelines given by this Court, the witnesses had not been examined on account of the dilatory tactics adopted by the accused. Despite the case, having been adjourned for more than nine hearings, there is no progress in the Trial. One after the other, the accused persons are filing petitions to recall the non bailable warrant. Only on 13.07.2016, all the eleven accused persons had been present before the Court below and summons had been issued to L.Ws.1 to 3. The 'B' Diary extract from 01.06.2016 to 28.07.2016 is reproduced as under:

01.06.2016	A1 present. A2 to A11 called absent. No representation. LW1 to LW3 present, but A2 to A11 called absent. Hence this witness has not examined. Issue NBW against A2 to A11. Call 06.06.2016. Ild/P.Revathi, J.M.No.II, Karur
03.06.2016	A2,A3,A5,A6,A8,A9 and A11 surrender and accepted. Advance hearing petition filed and allowed. NBW recalled. Case adjourned to 06.06.2016. Ild/P.Revathi, J.M.No.II,Karur
06.06.2016	A1 to A3,A5,A6 and A8,A9,A11 present. A4,A7,A10 NBW pending. Call on 13.06.2016. Ild/P.Revathi, J.M.No.II,Karur.
13.06.2016	A4,A7,A10 NBW Pending. Other accused present. Call on 28.06.2016. Ild/P.Revathi, J.M.No.II, Karur.
26.06.2016	(Holiday) A7 Produced on Execution of NBW. Remanded to Judicial Custody till 06.07.2016. Ild/P.Revathi, J.M.No.II, Karur.



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28.06.2016	A4,A10 NBW Pending, A1 to A3, A5, A8, A9 Present, A11, A6 called absent. No representation. Issued NBW against A6, A11, A7 Judicial Custody call on 13.07.2016. Ild/P.Revathi, J.M.No.II, Karur.
02.07.2016	A6,A11 surrender and accepted. Advance hearing petition filed and allowed. NBW recalled. Call on 13.07.2016. Ild/P.Revathi, J.M.No.II, Karur.
05.07.2016	A4,A10 Surrender and accepted. Advance hearing petition filed and allowed. NBW recalled. Call on 13.07.2016. Ild/P.Revathi, J.M.No.II, Karur.
13.07.2016	A1 to A11 present. Issue summon to LW1 to LW3 call on 28.07.2016. Ild/P.Revathi, J.M.No.II, Karur.
28.07.2016	A1 to A11 present. Witness not produced. LW1 to LW3. Call on 09.08.2016. Ild/P.Revathi, J.M.No.II, Karu.

4. The learned Government Advocate (Crl. Side) would submit that the respondents will produce P.W.1 on the adjourned date and they will also ensure that sufficient and adequate protection will be given to the petitioner/de-facto complainant/P.W.1. The said undertaking is recorded.

5. In view of the above, the Judicial Magistrate, No.II, Karur, is directed to expedite the trial in C.C.No.159/2015 and dispose of the same, within a period of three months from the date of receipt of a copy of this order. If the Trial Court fails to adhere to the guidelines given by this Court, then this Court will be compelled to infer that the Trial Court is not inclined to follow the orders of this Court and in that case the consequences would follow.

6. With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar



To:

1. The Judicial Magistrate No.2,
Karur.
2. The Inspector of Police,
Aravakurichi Police Station
Karur District.
3. The Inspector of Police,
Velayuthampalayam Police Station
Karur District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Samidurai, Advocate SR.No. 42673

RR/AR

JA-GSV-PM-02.09.2016/4P:6C

Cr1.O.P. (MD) .No.13938 of 2016
08.08.2016