

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 29.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE V.S.RAVI**Crl.O.P.No.3602 of 2016**

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M.Uthirapathy

.. Petitioner/A4

Vs.

The State rep. by Inspector of Police
District Crime Branch
District Police Office,
Thanjavur District
Crime No.06/2005

.. Respondent/
De-facto complainant

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to direct the learned District Munsif cum Judicial Magistrate, Orathanadu to number the Crl.M.P.SR.No.6391/2015 filed by the petitioner on 14.10.2015 and dispose the same within the time stipulated by this Court.

For Petitioner :: Mr.V.S.Kumaraguru

For Respondent :: Mr.P.Kandasamy

Government Advocate (Crl. side)

O R D E R

Seeking a direction to the learned District Munsif cum Judicial Magistrate, Orathanadu to number the Crl.M.P.SR.No.6391/2015 filed by the petitioner on 14.10.2015 and dispose of the same, the petitioner has come up with this petition.

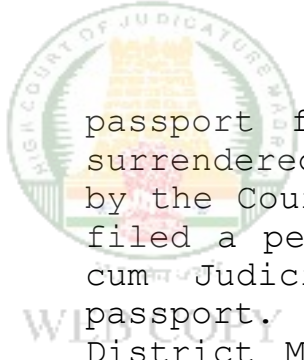
2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent.

3. This is a petition filed by the petitioner, who is accused No.4 in Crime No.06/2005. It is stated in the petition that the petitioner preferred an appeal before the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai in C.A.No.28/2013 and by judgment dated 02.07.2014, the petitioner has been acquitted from all the charges.

4. It is seen that in the last paragraph of the judgment dated 02.07.2014, it has been stated as follows:

" 23.In the result, this appeal is allowed. The judgment of the lower Court in CC 365/2007 is set aside."

5. Under such circumstances, the petitioner has pointed out that after acquittal, the petitioner is entitled to receive the



passport from the learned Magistrate, since the same has been surrendered by him in compliance of the condition imposed on him by the Court below. Further, it is stated that the petitioner has filed a petition on 14.10.2015 before the learned District Munsif cum Judicial Magistrate, Orathanadu, for the return of the passport. However, the said petition is returned by the learned District Munsif vide endorsement dated 14.10.2015 and 02.12.2015 without numbering on the ground that the case bundle has not been received from the said Court. It is not known as to why the learned 3rd Additional District and Sessions Judge, Thanjavur at Pattukottai is keeping the records after disposal of the case as early as on 02.07.2014 itself. Hence, the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai is hereby directed to return the entire case bundle forthwith to the file of the learned District Munsif cum Judicial Magistrate, Orathanadu.

6. The prayer in this present petition is only for a direction to the learned Magistrate to number the petition in Cr.M.P.SR.No.6391 of 2015 and dispose of the same at the earliest. Certainly, the learned District Munsif cum Judicial Magistrate, Orathanadu, has to pass appropriate orders in accordance with law, after entertaining the petition filed by the petitioner and after giving an opportunity to the respondent. Further, the petitioner has rightly pointed out in the petition that the return of the application filed by the petitioner, amounts to denial of justice

7. On a perusal of the entire records particularly the endorsement made by the learned District Munsif cum Judicial Magistrate, Orathanadu it is found that the petitioner is very much correct in praying for a direction as pointed out in the petition. It is also seen that there is no further proceedings taken as against the acquittal Judgement passed by the learned III Additional District and sessions Judge, Thanjavur at Pattukottai in Crl.A.No.28/2013 dated 02.07.2014.

8. Under such circumstances of the case, the learned District Munsif cum Judicial Magistrate, Orathanadu, is hereby directed to number the petition in Crl.MP.SR.No.6391/2015 filed by the petitioner dated 14.10.2015 and dispose of the same within a period of two months from the date of receipt of a copy of this order.

9. In the meantime, the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai is hereby directed to return the entire case records in Crl.A.No.28/2013 to the file of the learned District Munsif cum Judicial Magistrate, Orathanadu, forthwith. A copy of the order be served to the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai, for compliance of the order forthwith.



With the above direction, the criminal original petition is disposed of.

Sd/
Assistant Registrar (Crl.Side)

/True Copy/

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Sub Assistant Registrar

To

1. The District Munsif cum Judicial Magistrate,
Orathanadu
2. The III Additional District & Sessions Court,
Thanjavur at Pattukottai.
3. The Inspector of Police
District Crime Branch
District Police Office,
Thanjavur District

+1cc to Mr.V.S.Kumaraguru, Advocate SR.No.11528

CN/SKN-SK/15.03.2016/3P-5C

Crl. O.P. (MD) No.3602 of 2016

29.02.2016