



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.03.2016

WEB COPY

CORAM:
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.3933 of 2016
and
Crl.M.P.(MD) No.1980 of 2016

S.Marimuthu ... Petitioner / 1st Accused

vs.

1.The State represented by
The Inspector of Police
Thiruthangal Police Station
Sivakasi
Virudhunagar District

... 1st Respondent / Complainant

2.M.Veeraragavan

... 2nd Respondent / *De facto*
Complainant

PRAYER: This petition is filed under Section 482 Cr.P.C., to call for the records, in C.C.No.234 of 2008, on the file of the Judicial Magistrate Court, Sivakasi and quash the same as against the petitioner.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mrs.S.Prabha

G.A.(Crl.Side) for R1

O R D E R

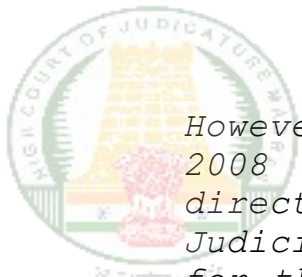
The petitioner / first accused has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking quashment of the proceedings, in C.C.No.234 of 2008, on the file of the learned Judicial Magistrate, Sivakasi, in respect of him.

2. Heard Mr.F.X.Eugene, learned counsel appearing for the petitioner / first accused and Mrs.S.Prabha, learned Government Advocate (Criminal Side) for the first respondent.

3. On 04.03.2016, when the matter came up for hearing, this Court has passed the following Order:

"When the matter was taken up for hearing, the learned Government Advocate (Crl.Side) appearing for the 1st respondent Police submitted that the trial has already been commenced and P.W.1 has been examined.

2. As the trial has already been commenced, it is not desirable for this Court to quash the proceedings.



However, it is seen that the prosecution is of the year 2008 and there are 23 witnesses. Hence, Registry is directed to address the communication to the learned Judicial Magistrate, Sivakasi, calling for explanation for the delay in completion of the case in C.C.No.234 of 2008.

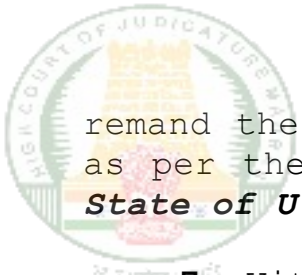
3.The matter is adjourned to 29.03.2016."

4. In compliance of the above, the learned District Munsif-cum-Judicial Magistrate No.I, Sattur, who is in full additional charge of Judicial Magistrate, Sivakasi, has sent a report, dated 24.03.2016, wherein it is stated as follows:

"As per reference cited above, I submit in C.C.No.234/08 was taken on file of this Court on 29.12.2008. The LW1 (M.Veeraragavan) was examined as PW1 on 28.08.2012 and reexamined on 18.02.2014. The LW3 (P.Duraichamy) was examined as PW2 on 01.09.2015. Subsequently the summons to LW2 and LW4 was issued on 15.09.2015, 13.10.2015, 05.01.2016, 02.02.2016 and 23.02.2016 for examination. On 23.02.2016 the defence counsel stated that the Principal Sessions Court, Virudhunagar District at Srivilliputtur has stayed the case under Tr.O.P.No.281/15. Hence, the case has been posted for production of order copy on 29.02.2016, 02.03.2016, 03.03.2016, 05.03.2016. Finally it is posted for production of order copy on 26.04.2016. But till now the defence counsel has not produced the order copy."

5. From the above, it is seen that the accused are taking time on the ground that they have filed a transfer original petition, in Tr.O.P.No.281 of 2015, before the learned Principal Sessions Judge, Virudhunagar District at Srivilliputtur, seeking transfer of the case in C.C.No.234 of 2008.

6. Under such circumstances, the learned Principal Sessions Judge, Virudhunagar District at Srivilliputtur, is directed to first verify whether the accused, in C.C.No.234 of 2008, have filed Tr.O.P.No.281 of 2015 for transferring the case in C.C.No.234 of 2008 from the file of the learned Judicial Magistrate, Sivakasi, if so, the learned Principal Sessions Judge, Virudhunagar at Srivilliputtur is directed to dispose of the Tr.O.P.No.281 of 2015, within a period of four weeks from the date of receipt of a copy of this Order. Thereafter, the Trial Court, is directed to proceed with the trial, in C.C.No.234 of 2008, and dispose of the same within a period of six months after the disposal of the said Tr.O.P.No.281 of 2015. If the accused do not co-operate in the conduct of trial by cross-examining the prosecution witnesses as and when they examined in chief as held by the Apex Court in **Vinod Kumar vs. State of Punjab**, reported in **2015 (1) MLJ 288 (SC)**, it is open to the learned Trial Judge, to



remand the accused to custody as per Section 309 Cr.P.C. and also as per the decision laid down by the Honourable Supreme Court in **State of U.P. Vs. Sambhunath Singh**, reported in **2001(4) SCC 667**.

7. With the above directions, this criminal original petition is disposed of. Consequently, connected criminal miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

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To

1.The Judicial Magistrate,
Sivakasi.

2.The Inspector of Police,
Thiruthangal Police Station,
Sivakasi, Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.The Principal Sessions Judge,
Virudhunagar at Srivilliputtur.

+1 cc to Mr.F.X.Eugene, Advocate Sr No.17526

rg.SK-SKN/09.03.2016 3P/6C

Cr1.O.P.(MD) No.3933 of 2016
and
Cr1.M.P.(MD) No.1980 of 2016
29.03.2016