



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.5740 of 2016

1.Raja

2.Joseph Selvaraj

3.M.S.Vijaya

... Petitioners / Accused 1 to 3

vs.

The Inspector of Police

All Women Police Station

Andipatty, Theni District

(Crime No.13 of 2009)

... Respondent / Respondent

PRAYER: This petition is filed under Section 482 Cr.P.C., to expedite the case in C.C.No.464 of 2011 on the file of the learned Judicial Magistrate No.II, Madurai.

For Petitioners : Mr.R.Rajaraman

For Respondent : Mrs.S.Prabha, G.A.(Crl.Side)

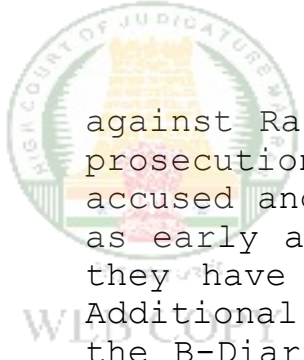
Mr.Joseph Jayakumar for Intervenor

O R D E R

The petitioner has filed this criminal original petition, under Section 482 of the Code of Criminal Procedure, seeking direction upon the learned Judicial Magistrate No.II, Madurai, to expedite the trial in C.C.No.464 of 2011.

2. Heard Mr.R.Rajaraman, learned counsel for the petitioners / accused 1 to 3 and the Mrs.S.Prabha, learned Government Advocate (Criminal Side) appearing for the respondent Police. Mr.Joseph Jayakumar, learned counsel who intervened into the matter on behalf of the intervenor, was also heard.

3. It is seen that on the complaint lodged by one Udayalakshmi, the respondent Police registered a case in Crime No.13 of 2009 for the offences punishable under Sections 498(A) I.P.C., and 4 of T.N.P.H.W.Act and after completion of investigation, the respondent Police filed a final report before the learned Judicial Magistrate No.II, Madurai, in C.C.No.464 of 2011, against Raja (A1), Joseph Selvaraj (A2), M.S.Vijaya (A3) and Raja Rajeswari (A4). Further, it is seen that Raja Rajeswari (A4) is a second wife and hence the case in C.C.No.464 of 2011 was split up as against her and the Trial Court proceeded the case as



against Raja (A1), Joseph Selvaraj (A2) and M.S.Vijaya (A3). The prosecution witnesses nine in numbers were cross-examined by the accused and the accused were questioned under Section 313 Cr.P.C., as early as on 15.07.2013. Thereafter, the accused reported that they have no evidence on their side and therefore, the learned Additional Public Prosecutor had to make his submissions. From the B-Diary extract, it is seen that the case has been repeatedly adjourned from 22.07.2013 till 18.12.2013 at the request of the learned Additional Public Prosecutor for making his submissions and on 27.12.2013 the *de facto* complainant filed an application, under Section 173(8) Cr.P.C., seeking further investigation of the case and the same was dismissed by the learned Judicial Magistrate, by Order dated 30.12.2013, challenging which the *de facto* complainant appears to have approached the Sessions Court, Madurai, under Section 397 Cr.P.C., which was also dismissed.

4. From the above it is apparent that the *de facto* complainant and the Assistant Public Prosecutor have been doing everything needs possible to protract the trial and keep the accused in limbo from 2009 to 2016. Under Section 309 Cr.P.C., the trial should go on day-to-day basis and in Explanation-2 of Section 309 Cr.P.C., it is stated that for the delay in trial, the prosecution or the accused will be entitled to costs. This Court finds that from 2003 to 2016 the *de facto* complainant has somehow managed to prolong the trial by filing frivolous applications before the Trial Court as well before the Sessions Court thereby causing undue hardship to the accused. Under such circumstances the accused is entitled to exemplary costs payable by the *de facto* complainant if she adopts such dilatory tactics. It is seen that the case is posted for hearing on 28.04.2016 and hence the learned Judicial Magistrate No.II, Madurai, is directed to ensure that the arguments in C.C.No.464 of 2011 is completed on that day itself and Judgment is delivered within a period of one month thereafter.

5. With the above observations, this criminal original petition is disposed of.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

Madurai Bench of Madras High Court,
Madurai.

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To

<https://hcservices.mca.gov.in/hcservices/>
The Judicial Magistrate No.II, Madurai.



2.The Inspector of Police,
All Women Police Station,Andipatty,
Theni District.

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

+1 cc to Mr.R.Rajaraman,Advocate Sr No.22655

rg.sk-skn/SAR-I 25.04.2016 3p/5c

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