



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2016

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA**Crl.O.P. (MD) No.8508 of 2016**

WEB COPY

Senthil kumar

.. Petitioner

-vs-

State rep.by the
Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District
Crime No.330 of 2010

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the learned Additional District Munsif cum Judicial Magistrate Court, Manamadurai to proceed the case expeditiously in C.C.No. 241 of 2010 on the file of the learned Additional District Munsif cum Judicial Magistrate Court Manamadurai and dispose the case within a time frame fixed by this Court.

For Petitioner : Mr.R.Karunanidhi
For Respondent : Mr.A.P.Balasubramani,
Government Advocate
(Criminal side)

ORDER

Starting from 12.08.2013 followed by 23.09.2013, 04.11.2013, 13.01.2014, 10.02.2014, 01.04.2014, 09.06.2014, 20.08.2014, 03.11.2014, 02.02.2015, 27.04.2015, 10.07.2015, 05.10.2015, 05.01.2016 and 29.03.2016, all these entries direct fresh summon to L.Ws.1 to 3 without detailing as to what happened to the summons issued to L.Ws.1 to 3. There are only totally 10 witnesses and when the offence is under Section 294(b), 420, 353, 506(ii) IPC, the accused claim that the learned Additional District Munsif - cum - Judicial Magistrate Court, Manamadurai ought to have disposed of the case at an early point of time and as the proceedings are kept pending, there must be a direction to expeditiously dispose of this case in C.C.No. 241 of 2010.

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

3. It is necessary to mention the methods available for the Court to get the attendance of the witnesses. Section 61 to Section 90 Cr.P.C. deal with the procedures for compelling the attendance of the witnesses and the provisions are relating to summons, warrant and proclamation for persons absconding. Out of those provisions, it is sufficient to highlight the provisions of Section 62, Section 64 and Section 69 as under:



Section 62 describes the procedure for serving a Summons on a person as follows -

(1) Every summons shall be served by a police officer, or subject to such rules as the State Government may make in this behalf, by an officer of the Court issuing it or other public servant.

(2) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

(3) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

64. Service when persons summoned cannot be found

Where the person summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family residing with him, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

69. Service of summons on witness by post.

(1) Notwithstanding anything contained in the preceding sections of this Chapter, a Court issuing a summons to a witness may, **in addition to and simultaneously with** the issue of such summons, direct a copy of the summons to be served by registered post addressed to the witness at the place where he ordinarily resides or carries on business or personally works for gain.

(2) When an acknowledgment purporting to be signed by the witness or an endorsement purporting to be made by a postal employee that the witness refused to take delivery of the summons has been received, the Court issuing the summons may declare that the summons has been duly served.

4. Perusal of records did not indicate that the Lower Court has additionally issued summons through registered post. Sending summons parallally adopting duel methods, that is one through personal service another through postal service would always save the time of the Court and it is always useful to cross check the effectiveness and truthfulness of the service/non service of summons. In case of wilfull disobedience to the summons, it is open to the Court to issue warrant / to take further proceedings



in order to get the witnesses for examination. The Court is expected to follow the procedure and to ensure the attendance of witnesses for early disposal of the case.

5. Perusal of the records also reveal that Lws.1 to 3 are officials attached to PWD Department. When they are active service of Government as contemplated under Section 66 Cr.P.C., the summons shall be sent in duplicate to the Head Office in which L.W.s1 to 3 are employed and such Head shall cause the summon to be served in the manner indicated in Section 62 Cr.P.C.

6. The learned counsel for the petitioner fairly submitted that more than 2000 cases are pending and the Court dealing with this case is a cum Court, I.e., dealing with both civil and criminal cases and more than 800 cases pending for issuance of witness summons. With such huge pendency, this mistake might have occurred. However, the learned Principal District Judge of Sivagangai District shall look into the matter and make appropriate request to the High Court for bifurcation of jurisdiction as well as for constitution of new/additional Courts.

7. With this observation, this Criminal Original Petition is disposed of with a direction to the learned Additional District Munsif - cum - Judicial Magistrate Court, Manamadurai to dispose of C.C.No.241 of 2010 within a period of two months from the date of receipt of a copy of this order. A copy of this order is ordered to be communicated to the Chief Engineer, PWD Department, Chepauk, Chennai.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To:

1. The Additional District Munsif-cum-Judicial Magistrate , Manamadurai.
 2. The Principal District Judge, Sivagangai District.
 3. The Chief Engineer, PWD Department, Chepauk, Chennai
 4. The Inspector of Police, Thiruppuvanam Police Station, Sivagangai District.
 5. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
- +1 cc to M/s.R.Karunanidhi, Advocate in SR.No.28995

Cr1.O.P(MD)No.8508 of 2016

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