



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

CRL.RC(MD) No.598 of 2016

WEB COPY

George Ashok

... Petitioner /A5

-vs-

The State, through
The Inspector of Police,
Vadipatti Police Station,
(Crime No.816 of 2010)

... Respondent/
Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w Section 401 Cr.P.C., praying this Court to call for the entire records in the order passed by the learned District Munsif-cum-Judicial Magistrate, Vadipatti in Cr.M.P.No.5097 of 2014 in C.C.No.25 of 2013 in Crime No.816 of 2010 dated 2.3.2016 and to set aside the same and to order split up the case in C.C.No.25 of 2013 on the file of the learned District Munsif-cum-Judicial Magistrate, Vadipatti to conduct a separate trial for the Petitioner.

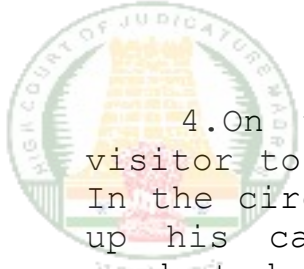
For Petitioner	:	M/s.K.K.Kannan
For Respondent	:	Mrs.S.Prabha
		Govt.Advocate (Crl.Side)

O R D E R

A5 in C.C.No.25 of 2013, on the file of the learned Judicial Magistrate, Vadipatti, aggrieved by the dismissal of his petition in Cr.M.P.No.5097 of 2014 in C.C.No.25 of 2013 which has been filed to split up his case, has directed this revision.

2.This revision is directed under Section 397 r/w Section 401 of Criminal Procedure Code. The Sessions Court as well as this Court exercised this revisional jurisdiction. This jurisdiction is different from the appellate jurisdiction. The revisional jurisdiction is intended to scrutinize the legality, propriety and regularity of an order passed by an inferior Court/Subordinate Court.

3.Now, in this case, the Petitioner is A5. It is alleged that 13 persons including the Petitioner indulged in transporting liquor bottles and have violated the provisions of the Tamil Nadu Prohibition Act. The Investigation Officer completed the investigation and filed the final report before the learned Judicial Magistrate, Vadipatti for offence under Section 4(i)(aaa) (Transport)(ii) of Tamil Nadu Prohibition Act.. The learned Judicial Magistrate took cognizance thereon in C.C.No.25 of 2013. The Petitioner/A5 is regularly attending the Court. For the past three years, summons have not been served on the other accused. In the circumstances, the trial could not be started.



4. On the other hand, the Petitioner/A5 is a regular visitor to the Magistrate Court and interacts with his counsel. In the circumstance, he filed Cr.M.P.No.5097 of 2014 for splitting up his case from the rest of the accused and trial may be conducted as against him.

5. The learned Judicial Magistrate, Vadipatti passed the impugned order on 2.3.2016 dismissing his petition on the ground that the petitioner and other accused are relatives, they belong to the same village, the other accused have wilfully refused to receive the summons and if the case as against the petitioner is split up, it will result in multiplicity of cases and it will result in waste of Court's time.

6. The learned counsel for the Revision Petitioner would contend that none of the reasons stated in the impugned order is sustainable in law. He would submit that for the fault of other accused, the petitioner cannot be blamed, he cannot be asked to put up with untold miseries and mental agony, when especially, he is ready to defend himself and also engaged a defense counsel.

7. The learned Government Advocate (Crl. side) submitted that there seems to be some unholistic alliance between the petitioner and the other accused since all belong to the same village. If the case is split up, it will result in giving birth to one more case.

8. I have anxiously considered the rival submissions, perused the impugned order and also the materials on record.

9. Splitting up of the criminal case is not an uncommon event in Criminal Courts. Naturally, split up case will have a new case number, while the remaining case will become its mother case. Though both will have different case numbers, but the nature of the case, type of evidence will be same.

10. By routine practice in fit and appropriate cases, splitting up of the case came to be ordered. But it depends upon the facts and circumstances of each case and a case cannot be simply split up on the mere request of the accused. It is one aspect of the matter.

11. There is another aspect of this matter. It is the fundamental right of an accused to have a speedy trial and speedy justice. It emanates from Article 21, Constitution of India. The benefit of speedy trial is two-folded. One, innocent will be freed quickly and secondly, the guilty will be dealt with appropriately, at an early date. Thus, in criminal jurisprudence, now 'speedy investigation', 'speedy trial' and 'speedy justice' has become a facet of human rights of the accused.

12. Now coming to the present case, there are 13 accused. Petitioner/A5 is regularly attending the hearings before the learned Judicial Magistrate, Vadipatti for the past three years. He has also engaged a Lawyer to defend himself. For the past three years, Vadipatti Police struggles to execute the summons on the accused. The learned Magistrate is quite a laconic when the prosecution himself says that the said persons are available in the same village. It is also stated by the prosecution that the other accused are

wilfully evading the receipt of summons. For their such fault or of inability of the Vadipatti Police to serve the summons on the other accused, the petitioner cannot be asked to suffer.

13.The Courts are meant for delivery of justice. Justicing business is a difficult business. It is a difficult task. It takes some time. Since the Court has to do some additional work, it cannot deny splitting up of the case when it is a fit case. In this view of the matter, the impugned order suffers from legality and propriety.

14.In the circumstances, it is ordered as under:

(1)This revision is allowed.

(2)The order passed by the learned Judicial Magistrate, Vadipatti in Cr.M.P.No.5097 of 2014 in C.C.No.25 of 2013 in Crime No.816 of 2010, dated 2.3.2016 is set aside.

(3)The learned Judicial Magistrate, Vadipatti is directed to split up the case as against the petitioner/A5 from C.C.No.25 of 2015 in a new C.C.Case and proceed further as against A5 according to law.

(4)The learned Judicial Magistrate, Vadipatti shall remind the Inspector of Police, Vadipatti to serve the summons on A1 to A4 and A6 to A13 and to enforce their attendance/ secure their presence in the Court,the learned Judicial Magistrate, Vadipatti will take necessary action, in accordance with law.

Sd/-

Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate, Vadipatti.
 - 2.The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court,Madurai.
 - 3.The Superintendent of Police,
Madurai Rural District at Madurai
 - 4.The Inspector of Police,
Vadipatti Police Station,
Madurai District.
- +1cc to Mr.K.K.KANNAN,ADVOCATE IN SR.NO. 48052

VSN

JA-DB-20.09.2016/3P:6C

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