

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2017

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRL.O.P.Nos.5542, 5555 & 5556 of 2017
and Crl.MP. Nos. 4139,4140, 4154,4155, 4156, 4157 of 2017

1. Ayyar Siva
2. Kadeswara Subramani @ Subramaniam
3. S. Krishnamurthy
4. A.R. Rajendran @ Nondi Rajendran
5. Sathishkumar
6. R. Manoharan
7. A. Subramani
8. T.V.Ganesan
9. R. Baskaran
10. Dhamu @ Venkateswaran ..Petitioners in
Crl.OP.No.5542 of 2017

1. R. Monoharan
2. Dhamu @ Venkateswaran
3. J. Kishore
4. R. Baskaran
5. Kadeswara Subramani @ Subramani
6. A.R. Rajendran @ Mondri Rajendran
7. Iyer Siva
8. Satishkumar
9. A. Subramani
10. S. Krishnamurthy ..Petitioners in
Crl.OP.No.5555 of 2017

1. T.V.Ganesan
2. Kadeswara Subramani @ Subramani
3. A.R.Rajendran @ Mondri Rajendran
4. J. Kishore
5. Thambu @ Venkateswaran
6. Sathishkumar
7. R. Manoharan
8. Arjunan
9. Mani
10. R. Baskaran
11. S. Krishnamurthy ..Petitioners in
Crl.OP.No.5556 of 2017

Vs.

State rep.by
The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.

.. Respondents in all Crl.OPs.

PRAYER in Crl.OP. No. 5542 of 2017 : Criminal Original Petition
filed under Section 482 of Cr.P.C, praying

- i).to call for the records pertaining to the charge sheet in
PRC No. 23 of 2008 on the file of Judicial Magistrate
No.II, Tiruppur, Tiruppur District and quash the same.
- ii).To stay of all further proceedings in PRC. No. 23 of 2008
on the file of Judicial Magistrate No.II, Tiruppur,
Tiruppur District, till the disposal of the above quash
petition.
- iii).To dispense with the personal appearance of the
petitioners in PRC. No. 23 of 2008 on the file of Judicial
Magistrate No.II, Tiruppur, Tiruppur District, till the
disposal of the above quash petition.

PRAYER in Crl.OP. No. 5555 of 2017 : Criminal Original Petition
filed under Section 482 of Cr.P.C, praying

- i).to call for the records pertaining to the charge sheet in
PRC No. 24 of 2008 on the file of Judicial Magistrate
No.II, Tiruppur, Tiruppur District and quash the same.
- ii).To stay of all further proceedings in PRC. No. 24 of 2008
on the file of Judicial Magistrate No.II, Tiruppur,
Tiruppur District, till the disposal of the above quash
petition.
- iii).To dispense with the personal appearance of the
petitioners in PRC. No. 24 of 2008 on the file of Judicial
Magistrate No.II, Tiruppur, Tiruppur District, till the
disposal of the above quash petition.

PRAYER in Crl.OP. No. 5556 of 2017 : Criminal Original Petition
filed under Section 482 of Cr.P.C, praying

- i).to call for the records pertaining to the charge sheet in
PRC No. 25 of 2008 on the file of Judicial Magistrate
No.II, Tiruppur, Tiruppur District and quash the same.
- ii).To stay of all further proceedings in PRC. No. 25 of 2008
on the file of Judicial Magistrate No.II, Tiruppur,
Tiruppur District, till the disposal of the above quash
petition.

iii).To dispense with the personal appearance of the petitioners in PRC. No. 25 of 2008 on the file of Judicial Magistrate No.II, Tiruppur, Tiruppur District, till the disposal of the above quash petition.

For Petitioners : M/s.G.Karthikeyan
(in all Crl.OPs)

For Respondent : Mr.P.Govindarajan
(in all Crl.OPs) Additional Public Prosecutor

COMMON ORDER

Relying upon the judgment reported in 1992 (1) SCC 225 (Abdul Rehman Antulay & Others Vs. R.S. Nayak & another) and the judgment reported in 2002 (4) SCC 578 (P. Ramachandra Rao Vs. State of Karnataka), the learned counsel for the petitioners submitted that the right to speedy trial has been violated in this case, therefore, sought to quash the proceedings.

2. It is true that, in both the judgments, the Hon'ble Supreme Court has held that by came to the conclusion that right to speedy trial of an accused has been infringed the charges or the conviction, as the case may be, shall be quashed. But this is not the only course open. The nature of the offence and other circumstances in a given case may be such that quashing of proceedings may not be in the interest of justice.

3. The learned Additional Public Prosecutor has also relied upon the judgment reported in 2012 (8) SCC 495 (Ranjan Dwivedi Vs. Central Bureau of Investigation)

paragraph 21 of the judgment is as follows;

"The reasons for the delay is one of the factors which the courts would normally assess in determining as to whether a particular accused has been deprived of his or her right to speedy trial, including the party to whom the delay is attributable. Delay, which is occasioned by action or inaction of the prosecution is one of the main factors which will be taken note of by the courts while interjecting a criminal trial. A deliberate attempt to delay the trial, in order to hamper the accused, is weighed heavily against the prosecution. However, unintentional and unavoidable delays or administrative factors over which the prosecution has no control, such as, overcrowded court dockets, absence of the Presiding Officers, strike by the lawyers, delay by the superior forum in notifying

the Designated Judge (in the present case only), the matter pending before the other forums, including the High Courts and the Supreme Court and adjournment of the criminal trial at the instance of the accused, may be a good cause for the failure to complete the trial within a reasonable time. This is only illustrative and not exhaustive. Such delay or delays cannot be violative of the accused's right to a speedy trial and needs to be excluded while deciding whether there is unreasonable and unexplained delay."

4. In the present case, whether the delay was intentional or non-intentional has to be determined. From the report of the learned Chief Judicial Magistrate, Tiruppur, it is seen that many of the accused have been absconded and that seems to be for mere reason of non service of summons.

5. I am of the view that if time is fixed for conclusion of trial, the ends of justice would be met. In view of the same, the present Criminal Original Petitions are dismissed.

6. The learned Judicial Magistrate No.II, Tiruppur is directed to complete the trial in PRC.Nos. 23 of 2008, 24 of 2008 and 25 of 2008 as expeditiously as possible and in any event not more than six months from the date of receipt of a copy of this order.

With the above observations, the Criminal Original Petitions are dismissed. Consequently, the connected Miscellaneous Petition are also closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Tiruppur.

2.-do- 'Thro' The Chief Judicial Magistrate,
Tiruppur.

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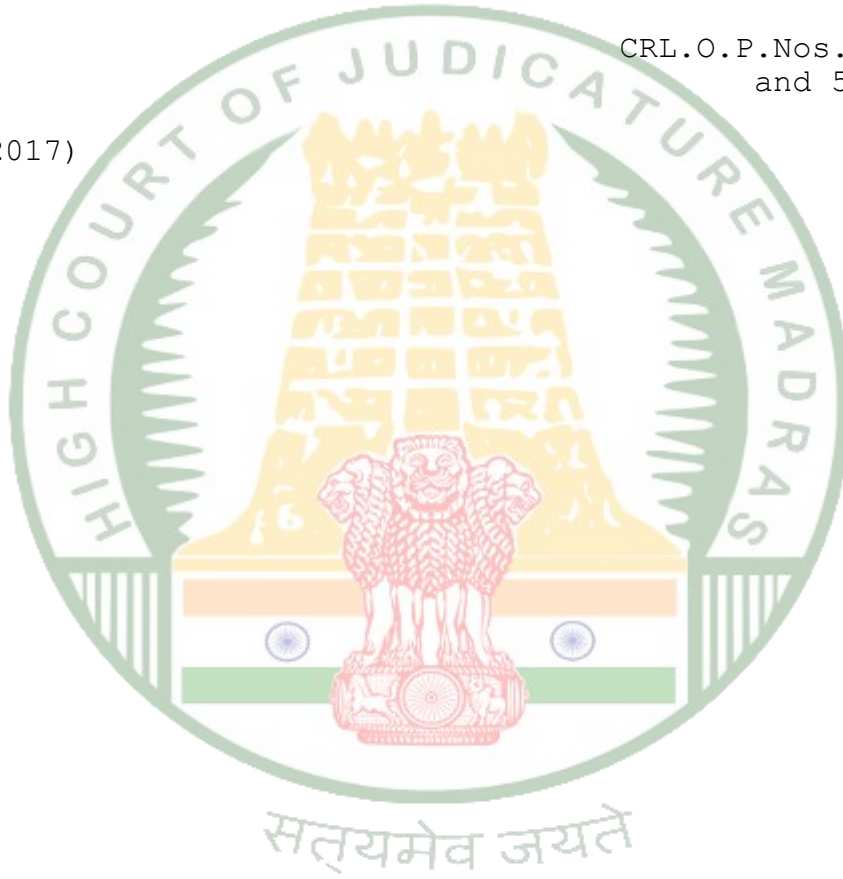
3. The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.

4. The Public Prosecutor,
High Court, Madras.

+3cc to Mr.G.Karthikeyan, Advocate, S.R.No.50726,50724,50725

SKV(CO)
GN(22/08/2017)

CRL.O.P.Nos.5542, 5555
and 5556 of 2017



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