

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.06.2017

C O R A M

The Honourable Mr.JUSTICE M.V.MURALIDARAN

Crl.O.P.No.25408 of 2011

B.M.Gnanavolivu

...Petitioner

Vs.

V.S.Thomas

....Respondent

Criminal Original Petition has been filed under Section 482 of Cr.P.C., seeking to set aside the order dated 05.04.2007 passed in M.P.No.62 of 2006 in C.A.No.110 of 2005 passed by the Learned 3rd Additional Fast Tract Judge at Chennai.

For Petitioner : Mr.P.Chandrasekar
For Respondent : No Appearance

O R D E R

This criminal original petition has been filed seeking to set aside the order dated 05.04.2007 passed in M.P.No.62 of 2006 in C.A.No.110 of 2005 passed by the Learned III Additional Sessions Judge, Fast Tract Court, Chennai.

2. The case of the petitioner is that the petitioner has already filed a petition in Crl.R.C.No.602 of 2007 before this Court challenging the order dated 05.04.2007 passed by the learned Additional Sessions Judge, FTC-III, Chennai in M.P.No.62 of 2006 in C.A.No.110 of 2005, during the pendency of the case in C.A.No.110 of 2005 on the file of the III Additional Sessions Judge, FTC Court, Chennai, this petitioner, who is an accused in C.C.No.4183 of 1998 has filed the petition in M.P.No.62 of 2006 in C.A.No.110 of 2005 for re-opening the case and to permit the petitioner to examine himself as a defence witness and also for production of day book to prove his case, in the interest of fair decision of this case. The said application was dismissed on 05.04.2007 by the learned Additional Sessions Judge, FTC-III, Chennai. Challenging the said order dated 05.04.2007, the petitioner has approached this Court by way of filing of a petition in Crl.R.C.No.602 of 2007 under Section 397 r/w 401 of Criminal Procedure Code. This Court, after

considering the case of the petitioner, allowed the petition on 20.08.2009 by directing the appellate Court to permit the petitioner/accused to examine himself as defence witness and such course should be completed within a period of 15 days from the date of the order copy reaching the appellate Court.

3. Challenging the said order dated 20.08.2009 in Crl.R.C.No.602 of 2007, the respondent has filed an appeal in Crl.A.No.922 of 2011 before the Hon'ble Supreme Court. After considering the case, the Hon'ble Supreme Court was pleased to allow the appeal in Crl.A.No.922 of 2011 by setting aside the order passed by this Court in Crl.R.P.No.602 of 2007 dated 20.08.2009 by giving liberty to the petitioner/accused to move petition fresh under Section 482 of Cr.P.C., before the this Court .

4. Pursuant to the order passed by this Court, the petitioner filed this petition under Section 482 of Cr.P.C. challenging the order passed in M.P.No.62 of 2006 in C.A.No.110 of 2005. During the course of the argument, the learned counsel for the petitioner produced a copy of the death certificate of the respondent, who died on 15.04.2014 itself and he has also stated that no steps were taken by the respondent to implead the legal heirs of the defacto complainant before the lower Court. Even though the respondent was died on 15.04.2014 and more than 3 years was lapsed, but till date no steps have been taken by the respondent.

5. Considering the nature of the grievance of the petitioner, this criminal original petition is liable to be allowed and accordingly, the same is allowed.

6. (a) This Criminal Original Petition is allowed by setting aside the order in M.P.No.62 of 2006 in C.A.No.110 of 2005 passed by the learned III Additional Sessions Judge, Fast Track Court, Chennai.

(b) The learned III Additional Sessions Judge, Fast Track Court, Chennai, is directed to dispose of the case in C.A.No.110 of 2005 within a period of 15 days from the date of receipt of copy of this order. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The 3rd Additional Sessions Judge,
Fast Tract Court, Chennai.

+1cc to Mr.V.RajKumar, Advocate SR.No.45412

Crl.O.P.No.25408 of 2011
and
M.P.No.1 of 2011

GN(04/08/2017)



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