



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Nineteenth day of April Two Thousand Seventeen
PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) No.12123 of 2016

IN

CRL OP(MD) No.14241 of 2012

D.SIMPSON

... PETITIONER/PETITIONER

Vs

1 STATE REP.BY

THE INSPECTOR OF POLICE,
ANTI LAND GRABBING SPECIAL CELL,
NAGERCOIL,
IN CR.NO.44 OF 2012,
KANYAKUMARI DISTRICT.

2 GOPINATHAN NAIR,

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to recall the order dated 04.10.2016 passed in the above Criminal Original Petition in Crl.OP(MD)No.14241/2012.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.P.BALASUBRAMANI, Government Advocate for R1 and M/S.T.ARUL, Advocate for R2, and of petitioner not appearing either in person or by an advocate the court made the following order:-

This petition has been filed to recall the order dated 04.10.2016 passed in Crl.O.P(MD)No.14241 of 2012.

2. On the complaint lodged by the 2nd respondent, the 1st respondent registered a case in Crime No.44 of 2012 on 27.07.2012 under Sections 120-B, 420, 465, 468, 471 r/w 34 IPC against Simpson and others, challenging which Simpson filed Crl.O.P(MD) No.14241 of 2012 for quashing the FIR. When Crl.O.P(MD) No.14241 of 2012 came up for hearing on 04.10.2016, it was represented on behalf of the prosecution that the investigation has been completed in Crime No.44 of 2012 and a charge sheet has been filed. Recording the same, this Court passed the following order:

"3. The learned Government Advocate (Criminal Side) would submit that the first respondent, after completing the investigation, has filed a final report and hence, this petition has become infructuous.

4. Recording the above submission, this petition is dismissed as infructuous. Consequently, connected Miscellaneous Petition is closed."



3. Thereafter, Simpson approached the learned Judicial Magistrate, Special Court for Anti Land Grabbing Cases, Tirunelveli and filed a copy application on 16.02.2017 for the certified copy of the charge sheet and the copy application has been returned by the Court on the ground that no charge sheet has been filed. Therefore, Simpson has filed the present petition to recall the order dated 04.10.2016.

4. There is no representation for the petitioner. Heard the learned Government Advocate (Crl.Side) for R1 and the learned counsel for R2.

5. Learned Government Advocate (Crl.Side) submitted that the investigation in Crime No.44 of 2012 was completed as early as on 27.09.2013 and the charge sheet was also presented before the learned Judicial Magistrate, Special Court for Anti Land Grabbing Cases, Tirunelveli on 27.09.2013, but the same was not accepted by the Court and was returned on the ground that the Hon'ble Supreme Court has granted stay of all proceedings before the Special Court for Anti Land Grabbing Cases. But, unfortunately, when Crl.O.P.(MD) No.14241 of 2012 came up for hearing on 04.10.2016, the concerned Police Officer had given instructions as if the charge sheet has been filed.

6. Learned Government Advocate (Crl.Side) produced the charge sheet before this Court and on a perusal of the same, this Court finds that the investigation has been completed as early as on 27.09.2013. In the considered opinion of this Court, had the Police given proper instructions to the learned Government Advocate (Crl.Side), when the matter came up for hearing on 04.10.2016, this Court would have issued appropriate directions, instead of dismissing the case as infructuous.

7. It is common knowledge that the Hon'ble Supreme Court has stayed all proceedings before the Special Court for Anti Land Grabbing Cases in Tamil Nadu as the very constitution of the said Courts is under challenge before the Apex Court. However, the ordinary original jurisdiction of the regular Magistrate to try these cases stands unaffected by the stay granted by the Apex Court. The accused and the victim have got a right of speedy trial guaranteed under Article 21 of the Constitution of India.

8. Therefore, this Court directs the respondent Police to submit the charge sheet in Crime No.44 of 2012 before the learned Judicial Magistrate No.I, Nagercoil within four weeks from the date of receipt of a copy of this order, who, in turn, shall take the same on file and pass orders in accordance with law. Learned Judicial Magistrate (Special Court for Anti Land Grabbing Cases), Tirunelveli is directed to transfer the FIR and other connected records, if any, to the court of learned Judicial Magistrate No.I,



Nagercoil within four weeks from the date of receipt of a copy of this order.

9. With the above directions, this petition is disposed of.
sd/-

19/04/2017

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1) THE JUDICIAL MAGISTRATE, (SPECIAL COURT FOR ANTI LAND GRABBING CASES), TIRUNELVELI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
- 3) THE JUDICIAL MAGISTRATE NO.I, NAGERCOIL.
4. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI AT NAGERCOIL
5. THE INSPECTOR OF POLICE, ANTI LAND GRABBING SPECIAL CELL, NAGERCOIL, KANYAKUMARI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.12123 of 2016
IN
CRL OP (MD) No.14241 of 2012
Date :19/04/2017

MS/PM.PN/SAR-4/08.05.2017/3P.7C