



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2017

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

Crl.O.P. (MD) No.11208 of 2017
and

Crl.M.P. (MD) Nos.7699 & 7700 of 2017

- 1.Anwar Ali
- 2.J.Rahumathullah Khan
- 3.A.Ameer Abbas
- 4.H.Rahumathullah
- 5.M.Thajudeen
- 6.H.Sittiq Rahman
- 7.T.Vajibudeen
- 8.P.Abdull Karim
- 9.Y.Seyed Abuthahir
- 10.Y.Yakub hasan
- 11.A.Ayub Khan
- 12.J.Mohamed Farook
- 13.H.Seyed Abuthahir

... Petitioners

-Vs-

1. The Sub Divisional Magistrate and
The Revenue Divisional Officer (i/c),
District Adi-Dravidar Office,
Aranthangi,
Pudukottai.
2. The Inspector of Police,
Kottaipattinam Police Station (L&O),
Kottaipattinam,
Manamelkudi (T.K).
Pudukottai (D.T).

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in M.C.No.6/2016/A2, dated 03.06.2016 pending on the file of the 1st respondent and quash the same.

For Petitioners : Mr.D.S.Haroon Rasheed

For Respondents : Mr.K.Anbarasan,

Government Advocate (Crl.side)

**ORDER**

This Criminal Original petition is filed to quash the proceedings in M.C.No.6/2016/A2, dated 03.06.2016, pending on the file of the 1st respondent/Sub Divisional Magistrate and the Revenue Divisional Officer (i/c), Aranthangi, Pudukottai District.

2.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Criminal side) appearing for the respondents.

3.The petitioners are shown as counter petitioners in the impugned proceedings, which was initiated under Sections 107 r/w. Section 111 Cr.P.C. By the impugned notice, the petitioners, who are shown as counter petitioners, are called upon to appear before the first respondent on 07.06.2016 to show cause as to why the counter petitioners namely the petitioners should not be ordered to execute a bond for Rs.2,000/- for a period of one year.

4.The learned counsel appearing for the petitioners does not dispute that the notice issued under Section 107 Cr.P.C. satisfies the ingredients required under Section 111 of Criminal Procedure Code. However, it is the contention that the proceeding shall not go beyond six months as specific period of time for completing the enquiry and pass final order is prescribed as per Section 116 of Cr.P.C. The learned counsel appearing for the petitioners further stated that the enquiry has been adjourned on several occasions and that there was no progress. Hence, it is submitted that keeping the proceedings is not going to yield any result having regard to the object for which the power under Sections 107 and 111 of Cr.P.C. and other provisions of Cr.P.C. is conferred. The learned counsel appearing for the petitioners refers to Section 116 (6) of Cr.P.C. In the present context, it is relevant to refer to Section 116 (6) of Cr.P.C. which reads as follows:

“(6) The inquiry under this section shall be completed within a period of six months from the date of its commencement, and if such inquiry is not so completed, the proceedings under this Chapter shall, on the expiry of the said period, stand terminated unless, for special reasons to be recorded in writing, the Magistrate otherwise directs:

Provided that where any person has been kept in detention pending such inquiry, the proceeding against that person, unless terminated earlier, shall stand terminated on the expiry of a period of six months of such detention”

5. It is true that the enquiry under Section 116 of Cr.P.C. is the one which is consequential to the notice under Section 107 of Cr.P.C. Read with Section 111 of Cr.P.C. However, the time limit



prescribed under Section 116(6) is subject to the power of Magistrate to extend the period for reasons regarded in writing.

6. In this case, the learned Government Advocate on instructions submitted that the petitioners have not appeared and it was due to the non-appearance of the petitioners on so many occasions and non cooperation the matter was adjourned without any progress and that the first respondent cannot be blame for not completing the enquiry within a period prescribed under Section 116 (6) Cr.P.S. It is also stated that the first respondent is prepared to pass final order once the parties cooperate for early disposal by showing cause as to why they should not be ordered to execute the bond.

7. In these circumstances, having regard to the factual position that, it is only on account of the noncooperation of the parties concerned, an order could not passed within the prescribed time. This Court is not inclined to entertain this petition to quash the proceedings. Secondly, the power is conferred on the Executive Magistrate to extend the time for reasons to be recorded. This Court since found that there are sufficient reasons for the Executive Magistrate to record the reason to extend the time is not inclined to interfere with the proceedings in this quash petition.

8. Hence, this Criminal Original Petition is **dismissed** and a direction is issued to the first respondent to dispose of the proceedings within a period of two months from the date of receipt of a copy of this order, incorporating the reasons for the delay in disposal and to extend the time. The learned counsel appearing for the petitioners seeks indulgence of this Court to dispense with the presence of 10th petitioner, who is 89 years old. The submission of the learned counsel appearing for the petitioners is reasonable. Hence, appearance of 10th petitioner alone is dispensed with for the present unless or otherwise his appearance is specifically required by order of the first respondent. Consequently, connected Miscellaneous Petitions are also dismissed. It is open to the petitioners to challenge the final order on the ground of limitation.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Divisional Magistrate and
The Revenue Divisional Officer (i/c),
District Adi-Dravidar Office,
Aranthangi, Pudukottai.



2. The Inspector of Police,
Kottaipattinam Police Station (L&O),
Kottaipattinam,
Manamelkudi (T.K).
Pudukottai (D.T).

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.D.S.HAROON RASHEED, ADVOCATE IN SR No. 74428

IS/CMR

TE/JC/SAR-II : 12/10/2017 : 4P/5C

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