



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

WEB COPY

**CrI.O.P.(MD)No.1613 of 2017 and
CrI.M.P.(MD) Nos.1324 and 1325 of 2017**

1. J.Isac Rajamoni
2. G.Raja Mersili
3. C.Albert Raj
4. I.Jacob Henry King
5. R.Pon Vino
6. S.Jebamoni
7. J.Edwin Joseph
8. S.Jones Subha

... Petitioners/A1 to A8

-vs-

1. State of Tamil Nadu,
Rep. by The Sub-Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
(Crime No.105 of 2008)

2. K.Ambrose

... Respondents/Complainant-
Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to quash the charge sheet in C.C.No.251 of 2009 pending on the file of the Court of Principal District Munsiff-cum-Judicial Magistrate at Eraniel and pass such further or other orders which may deem to pass with regard to the facts and circumstances of the case and thus render justice.

For Petitioner: Mr.J.John Jayakumar
For R1 : Mr.A.P.Balasubramani
Govt. Advocate (CrI.Side)
For R2 : Mr.C.Sankar Prakash

O R D E R

This petition has been filed seeking to quash the charge sheet in C.C.No.251 of 2009 pending on the file of the Court of Principal District Munsiff-cum-Judicial Magistrate at Eraniel

2. On the complaint lodged by the 2nd respondent, the Police registered a case in Crime No.105 of 2008 on 01.11.2008 and after completing the investigation filed a charge sheet in C.C.No.251 of 2009 under Sections 147, 148, 448, 427 and 295 IPC before the learned Principal District Munsiff-cum-Judicial



Magistrate at Eraniel against eight accused, challenging which, all the accused are before this Court, on the ground that the Trial in this case has been kept pending without any progress.

3. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.Side) appearing for the State and the learned counsel for R2.

4. This Court called for a report from the before the learned Principal District Munsiff-cum-Judicial Magistrate, Eraniel, pursuant to which, a report dated 17.03.2017 has been submitted to this Court, wherein it has been stated as follows:

"3. I further humbly submitted that this case was taken on file on 25.7.2009 against A1 to A7. Accused 1 to 7 were appeared on 26.11.2009 and charge framed in this case against A1 to A7 on 27.11.2011. On 25.7.2016 A4, A5, A7, A8 were absent and non bailable warrant issued against A4, A5, A7, A8. On 29.11.2006 non bailable warrant against A8 was recalled. On 9.12.2016 non bailable warrant against A5 was recalled. On 26.12.2016 non bailable warrant against A4, A7 was recalled. This case posted on 7.4.2017 for appearance of L.W.1,2,3. Witness summons issued to Lw1 to 3 through concern police.

4. I humbly submit that though I am holding the full additional charge of Additional District Munsif, Eraniel, I have been taking all efforts to dispose of the Hon'ble High Court directions cases, custody cases and senior citizens cases and old pending cases by giving priority.

5. I humbly submit the remarks regarding the reference as per Honourable High Court."

5. From the above, it appears that the case has been getting delayed mainly on the ground of the conduct of the accused in absconding and thereafter, recalling warrants issued by the Court from time to time. Learned Magistrate has stated that he has issued summons to three witnesses for their appearance on 07.04.2017.

6. It is represented that there are only eight witnesses in this case. Therefore, this Court directs the learned Principal District Munsiff-cum-Judicial Magistrate, Eraniel to complete the trial of the case in C.C.No.251 of 2009 within six months from the date of receipt of a copy of this order. The accused shall co-operate with the Magistrate by appearing before the Trial Court and cross examine the witnesses on the day they are examined in

by the Hon'ble Supreme Court in the case of **Vinod Kumar vs. State of Punjab** reported in **2015 (1) Scale 542**. The



accused shall not adopt any dilatory tactics and if they abscond again, a fresh FIR can be registered against them under Section 229-A IPC. With the above direction, this petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To:

1. The Principal District Munsiff
-cum-Judicial Magistrate,
Eraniel.
2. The Sub-Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.JOHN JAYAKUMAR, Advocate, SR No. 50064

+1 CC to M/s.C.SANKAR PRAKASH, Advocate, SR No. 50033

AR

PSM/MMS/05.05.2017/3P/6C

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04.04.2017