

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 28.07.2017****CORAM****THE HON'BLE MR.JUSTICE V.BHARATHIDASAN****Cr1.R.C(MD)No.604 of 2017**

1.Murali @ Muralidharan
2.Sakkaravarthi

...Revision Petitioners/Accused
-Vs-

The State, through its
The Sub-Inspector of Police,
SIPCOT Police Station,
Tuticorin
(Crime No.16 of 2008)

... Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, praying this Court to call for the records in Cr.M.P.No.91 of 2017 in C.C.No.174 of 2008, on the file of Fast Track Court Magistrate Level, Tuticorin and to set aside the order passed in Cr.M.P.No.91 of 2017, dated 7.7.2017 and to direct the Fast Track Court Magistrate Level, Tuticorin to split up the above case in C.C.No.174 of 2008 on the file of Fast Track Court, Magistrate Level, Tuticorin.

For Petitioners : M/s.KA.Raamakrishnan

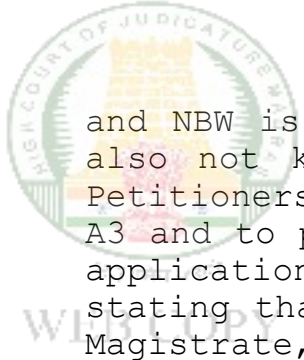
For Respondent : Mr.C.Mayilvahan Rajendran
Addl. Public Prosecutor (Cr1. Side)

O R D E R

Rejecting the Petitioner's application to split up the case, the present revision has been filed.

2.The Petitioners are A1 and A2 in C.C.No.174 of 2008, on the file of Fast Track Court, Thoothukudi. The case of the Petitioners in brief is that there are totally three accused in the above Calendar Case and the Petitioners are arrayed as A1 and A2. The occurrence took place in the year 2008 and final report was also filed in the same year and the matter was taken on file. Thereafter, the Petitioners are regularly appearing before the Court bellow, but the third accused did not appear before the Court, hence, a NBW was issued against him in the year 2014, so far the same has not been executed.

3.In the above case, trial commenced and entire witnesses have been examined and the proceedings under Section 313 Cr.P.C was also over, since accused No.3 was absconding from the year 2014



and NBW is also pending against him and the whereabouts of him is also not known, the trial did not proceed further. Therefore the Petitioners filed an application to split up the case as against A3 and to proceed with the trial in respect of A1 and A2. The above application has been dismissed by the learned Judicial Magistrate stating that originally, the matter was pending before the Judicial Magistrate, Thoothukudi and the case was then transferred to the file of learned Fast Track Magistrate, Thoothukudi with a direction to dispose of the case in the same C.C.Number. Hence the matter cannot be split up. Challenging the same, the present revision has been filed.

4. Heard the submissions of Mr.K.Raamakrishnan, learned counsel for the Petitioners and Mr.C.Mayilvahan Rajendran, learned Additional Public Prosecutor appearing for the respondent-state and considered the materials on record.

5. Admittedly, the trial commenced in the year 2014, and 313 Cr.P.C questioning was also over. At that point of time, A3 was absconding and hence NBW issued against him, and NBW is pending for more than three years. So far the Police has not taken any steps to execute the warrant.

6. In such circumstances, the learned Fast Track Court Judge, Magistrate Level, Tuticorin is directed to split up the case in respect of A1 and A2 and proceed with the trial in respect of A1 and A2 and dispose of the case in C.C.No.174 of 2008 within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, the Criminal Revision Case is allowed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Judge,
Fast Track Court,
Magisterial Level,
Tuticorin.

2. The Sub-Inspector of Police,
SIPCOT Police Station,
Tuticorin.

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

+1cc to M/s.KA.Raamakrishnan Advocate in SR.NO.68726