



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2017

CORAM

THE HON'BLE MR. JUSTICE P.N. PRAKASHCrl.O.P. (MD) No.2543 of 2017

WEB COPY

P.Meenakshiyammal

... Petitioner/Accused

-vs-

1. The Inspector of Police,
B-1 Police Station,
Villakuthoon,
Madurai District.
(Crime No.605 of 2014)

... Respondent/Complainant

2.M.Saravana

... Respondent/Defacto Complainant

3.

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the learned Judicial Magistrate No.1, Madurai to keep the proceedings pending in C.C.No.98 of 2016 on the file of the Learned Judicial Magistrate No.1, Madurai in Crime No. 605 of 2014 on the file of the Respondent No.1 in abeyance till the commencing of trial in Crime No. 606 of 2014 dated 28.08.2014 on the file of the respondent No.1 and both the cases may be tried and heard Jointly.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.A.P.Balasubramani

Govt. Advocate (Crl.Side)

O R D E R

This petition has been filed to direct the learned Judicial Magistrate No.1, Madurai to keep the proceedings pending in C.C.No.98 of 2016 on the file of the Learned Judicial Magistrate No.1, Madurai in Crime No. 605 of 2014 on the file of the Respondent No.1 in abeyance till the commencing of trial in Crime No. 606 of 2014 dated 28.08.2014 on the file of the respondent No.1 and both the cases may be tried and heard Jointly.

2. On the complaint lodged by the petitioner, a case in Crime No.605 of 2014 was registered on 28.08.2014 under Sections 294(b), 353 and 506(i) IPC against one Saravana Kumar, Sub-Inspector of Police. On the complaint of the said Saravana Kumar, the respondent police registered a case in Crime No.606 of 2014 against the petitioner herein on 28.08.2014 for offences under Sections 294(b), 353 and 506(i) IPC. The respondent police completed the investigation in Crime No.605 of 2014 and filed a final report in C.C.No.98 of 2016 before the learned Judicial Magistrate No.1, Madurai against Saravanakumar. Evidence has been recorded in C.C.No.98 of 2016 and the matter is posted for judgment.



3. While so, the petitioner is before this Court for a direction to the Trial Court not to proceed with the delivery of the judgment in C.C.No.98 of 2016 on the ground that the investigation in Crime No.606 of 2014 is still pending and that both cases should be tried one after the other following the judgment of the Supreme Court in the case of Nathi Lal and others vs. State of U.P. and another, reported in 1990 (Supp.) SCC 145.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for R1, who would, on instructions from the respondent police, submit that the investigation in Crime No.606 of 2014 was completed by the respondent police and a charge sheet was also filed on 10.07.2015, before the learned Judicial Magistrate No.1, Madurai, but the same was returned to the Police for certain compliances and that the Police have not re-presented the charge sheet.

5. The Hon'ble Supreme Court in Nathi Lal and others vs. State of U.P. and another (cited supra) has stated as follows:

"2. We think that the fair procedure to adopt in a matter like the present where there are cross cases, is to direct that the same learned Judge must try both the cross case one after the other. After the recording of evidence in one case is completed, he must hear the arguments but he must reserve the judgment. Thereafter he must proceed to hear the cross case and after recording all the evidence he must hear the arguments but reserve the judgment in that case. The same learned Judge must thereafter dispose of the matters by two separate judgments. In deciding each of the case, he can rely only on the evidence recorded in that particular case. The evidence recorded in the cross case cannot be looked into. Nor can the judge be influenced by whatever is argued in the cross case. Each case must be decided on the basis of the evidence which has been placed on record in the particular case without being influenced in any manner by the evidence or arguments urged in the cross case, But both the judgments must be pronounced by the same learned Judge one after the other."

6. However, subsequently, in State of M.P. vs. Mishrilal (Dead) and others, reported in (2003) 9 SCC 426, the Hon'ble Supreme Court, by relying upon Nathi Lal's case, has held as follows:

"8. In the instant case, it is undisputed, that the investigating officer submitted the challan on the basis of the complaint lodged by the accused Mishrilal in respect of the same incident. It would have been just, fair and proper to decide both the cases together by the same court in view of the guidelines devised by this Court in the Nathi Lal case. The cross-cases should be tried together by the same court irrespective of the nature of the offence involved."



7. In Nathi Lal's case, the Supreme Court has stated that trial should be completed in one case and only thereafter, the trial in the cross case should be commenced. In Mishrilal's case, the Supreme Court has stated that both cases should be tried together.

8. Be that as it may, the fact remains that the Police have not re-presented the charge sheet in Crime No.606 of 2014 and therefore, this Court directs the respondent police to immediately re-present the charge sheet in 606 of 2014 within one week from the date of receipt of a copy of this order and proceed with the case to its logical conclusion before the learned Judicial Magistrate No.I, Madurai. Learned Judicial Magistrate No.I, Madurai shall not deliver the judgment in C.C.No.98 of 2016 until the trial in Crime No.606 of 2014 is completed. Thereafter, learned Judicial Magistrate No.I, Madurai shall follow the law laid down by the Supreme Court in the aforesaid rulings and pass judgments in both cases on the same day one after the other.

With the above direction, this petition is ordered accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assitant Registrar

/True copy/

Sub Assistant Registrar

To:

1. The Judicial Magistrate No.1, Madurai.
2. The Chief Judicial Magistrate, Madurai.
3. The Inspector of Police,
B-1 Police Station,
Villakuthoon,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.T.LAJAPATHIROY, Advocate, in SR No. 13668

AR

AAM-SV MMS /10.03.2017 3P 6C

Cr1.O.P.(MD) No.2543 of 2017
09.03.2017