

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.11.2018
CORAM
THE HONOURABLE Mr.JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.21133 of 2011
and
M.P.NO.1 of 2011

K. Kumar

... Petitioner

Versus

The State represented by
The Sub-Inspector of Police
District Crime Branch
Villupuram,
Villupuram District - 605 602.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C. No.66 of 2011 in Cr. No.57 of 2010 and to quash the proceedings on the file of the Judicial Magistrate No.II, Tindivanam.

For Petitioner : No appearance

For Respondent-1 : Ms. Saratha Devi
(Govt. Advocate -Crl. Side)

For Respondent-2 : No appearance

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O R D E R

This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C. No.66 of 2011 in Cr. No.57 of 2010 and to quash the proceedings on the file of the Judicial Magistrate No.II, Tindivanam

2.When the case was called up at 2.15 p.m., there was no representation on the side of the petitioner, hence, it was passed over and thereafter, when it was again called in the evening, then too no representation on the side of the petitioner. Despite, the case has been listed under the caption "for dismissal" on 01.11.2018 and today, also there was no representation on the side of the petitioner.

3. It is represented by the learned Government Advocate that as Interim stay has been obtained in the Crl.M.P. No.1 of 2011 by the petitioner, the aforesaid case has been stalled without any progress in the Trial Court.

4. An Interim stay has been obtained in Crl.M.P.No.1 of 2011 in Crl.O.P.no.21133 of 2011. For the past eight years, the Trial Court is unable to proceed with the trial due to the above Interim Stay. The Stay granted on 08.09.2011 is interim and thereafter, the stay has not been extended.

5. As per the Judgment reported in 2018 SCC 310 in the case of Asian Resurfacing of Road Agency Pvt. Ltd., and Another Vs. Central Bureau of Investigation, no stay is to be granted for a period of more than six month, unless extended by a speaking order. In this case no extension of stay has been granted. There has been no representation on the side of the both parties.

6. The Lower Court is made clear that no stay is subsisting in the above case and hence, the trial in C.C. No.66 of 2011 in Cr. No.57 of 2010 has to be proceeded forthwith. The Trial Court is directed to take into account that the above case is pending for more than eight years without any progress and the Trial Court is directed to complete the trial in C.C. No.66 of 2011 in Cr. No.57 of 2010 within a period of six months from the date of receipt of copy of this order.

7. With the aforesaid direction, the Criminal Original Petition is dismissed for non-prosecution. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

lbm

To

1.Judicial Magistrate No.II,
Tindivanam.

2.The Sub Inspector of Police,
Distric Crime Branch, Villupuram.

3.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.21133 of 2011
and
M.P.NO.1 of 2011

rrs 27/12/2018