

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2018

CORAM:

The Hon'ble Mr.Justice P. RAJAMANICKAM

CRL.O.P.No.22668 of 2018

M.Mathias

.. Petitioner/Petitioner/Accused

Vs.

The State of TamilNadu
Rep. By Drugs Inspector,
Redhills Range,
Tiruvallur District.

..Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the order dated: 24.07.2018 passed in C.M.P.No.128 of 2018 in C.C.No.77 of 2015 on the file of the Chief Judicial Magistrate, Tiruvallur.

For Petitioner : Mr.R.Ezhilarasan

For Respondent : Ms.M.Prabhavathi
Additional Public Prosecutor

O R D E R

This petition has been filed by the accused to set aside the order dated 24.07.2018 passed by the Chief Judicial Magistrate, Tiruvallur in C.M.P.No.128 of 2018 dated 24.07.2018.

2. The learned counsel for the petitioner has submitted that the petitioner herein has filed a petition under Section 311 Cr.P.C in C.M.P.No.128 of 2018 in C.C.No.77 of 2015 to re-open the case for the purpose of adducing evidence on the side of the petitioner. He further submitted that the petitioner is having license to keep the medicines and only with a view to mark the said license, the petitioner has filed C.M.P No.128 of 2018 but the learned Judicial Magistrate, Tiruvallur has dismissed the said petition on the ground that the petitioner has filed the said petition belatedly, that too, at the stage of arguments. He further submitted that in order to prove that the petitioner has not committed any offence, an opportunity may be given to the petitioner to produce the license and hence he requests to set aside the order passed by the Chief Judicial Magistrate,

Tiruvallur.

3.The learned Public Prosecutor has submitted that the accused was questioned under Section 313(1)(b) Cr.P.C. in the year 2016 itself and thereafter, the case was posted for evidence on the side of the accused, but the petitioner has not availed the said opportunity and when the matter was posted for arguments with a view to drag on the proceedings, the petitioner has filed the petition to re-open the case and the same was rightly rejected by the Trial Court and hence, she requests to dismiss the petition.

4.It is seen from the typed set of papers filed by the petitioner that the petitioner herein has filed C.M.P 128 of 2018 on 25.01.2018 but in the impugned Order, it is stated that the said petition was taken on file on 08.02.2018. The respondent has filed a counter statement on 20.04.2018 i.e., after two and a half months, the respondent has filed a counter. The learned Chief Judicial Magistrate has disposed of the said petition on 24.07.2018. It shows that the learned Trial Judge has taken more than five months for disposing of the said petition, but even thereafter, the learned Chief Judicial Magistrate has not disposed of the main case till today. Under the said circumstances, merely because one opportunity is given to the petitioner for adducing the evidence on his side that would not affect the case of the prosecution. Therefore, this Court is inclined to allow the petition.

5. In the result, this petition is allowed. The order passed by the learned Chief Judicial Magistrate C.M.P No.128 of 2018 in C.C.77 of 2015 dated 24.07.2018 is set aside. The learned Chief Judicial Magistrate, Thiruvallur is directed to give one opportunity to the petitioner to produce his witnesses and thereafter dispose of the main case within two months. The petitioner is directed to produce his witnesses within a week from the date of receipt of a copy of this order.

सत्यमेव जयते
-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

vsn/vv

To

1. Drugs Inspector,
State of Tamil Nadu
Redhills Range,
Tiruvallur District.

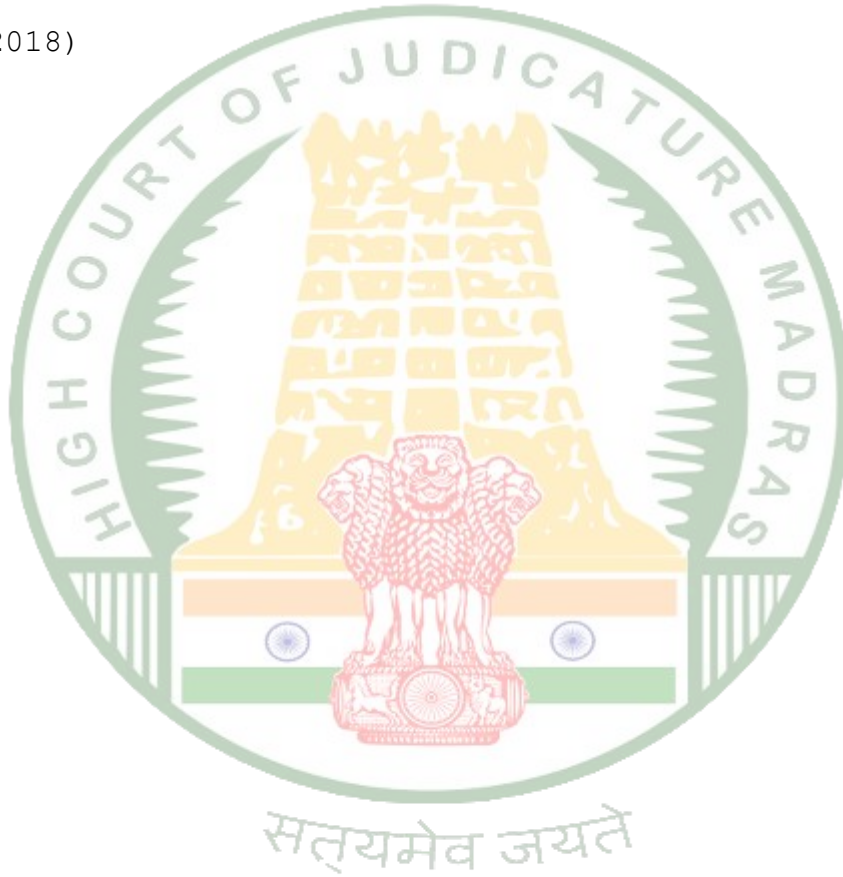
2. The Chief Judicial Magistrate, Thiruvallur.

3. The Public Prosecutor,
High Court of Madras,
Chennai.

+1 CC to Mr.R. Ezhilarasan, Advocate sr 66454.

CRL.O.P.No.22668of 2018

PVS (CO)
SP (08/11/2018)



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