

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.12000 of 2018

S.Vinthan

...Petitioner

Vs.

1.State rep. by
Inspector of Police
Kambainallur Police Station
Dharmapuri District.(Crime No:82/1986)

2.Area Supervisor
Tamil Nadu Civil Supplies Corporation Limited
Morappur, Dharmapuri District.

.. Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the charge sheet relating to C.C.No.157 of 1992 on the file of the Judicial Magistrate, Harur and quash the same on the ground of inordinate and unexplained delay.

For Petitioner : Mr.R.Ezhilarasan
For R1 : Mrs.Kritika Kamal.P.
Government Advocate (Crl.Side)

O R D E R

This criminal original petition has been filed to call for the charge sheet relating to C.C.No.157 of 1992 on the file of the Judicial Magistrate, Harur and quash the same on the ground of inordinate and unexplained delay.

2. The petitioner is facing prosecution in C.C.No.157 of 1992 before the Judicial Magistrate, Harur for the offences under Sections 409 and 477-A IPC. It is the case of the prosecution that the petitioner was working as Trainee Sales Assistant in the Civil Supplies shop run by the Tamil Nadu Civil Supplies Corporation, from 24.06.1983 to 20.11.1985 in Dharmapuri and that during audit, the authorities found shortage of certain commodities, cash remittance and free rice, total valued at Rs.13,347.80. The responsibility was fixed on the accused and prosecution was initiated. From 1992 to 2018, not even a single witness was examined. On the orders of this Court the trial Court has sent a report dated 14.06.2018, which reads as under:

"I humbly submitted that I joined only as Judicial Magistrate, Harur on 07.05.18. I further submitted on perused the case records in CC 157/92 on the file of this Court, The FIR and connected records are submitted before Judicial Ist class Magistrate, Dharmapuri on 22.10.86 on the points of jurisdiction. Subsequently, this case records are transference to this Court after upgrade of Judicial Magistrate.

I further submitted that the charge sheet filed before this court on 12.02.92 and taken on file is CC 157/92. The following original records on not yet received from concerned police i.e.

- 1) Telegram in endt Roc.No.14989/E3 Dated: 20.05.85.
- 2) V.O. Cr.M.P./85 dated:20.05.85
- 3) Charge list handed over by the accused dated 21.05.85.
- 4) Physical verification statement of Irumathur Ws dated 20.05.85
- 5) 100% audit report vide C.No.20144 dated: 21.05.85 by Area Supervisor Tr.Bakthavachalam.
- 6) Issue memos [25 in numbers]

I further submitted the fully property and documents are not yet received from Judicial Magistrate No.I Court, Dharmapuri, i.e.,

- 1) Copy of circular memo and correction in english.
- 2) Copy of stock register volume -V page 30 to 36.
- 3) Copy of C Register volume - XII page 42, Dated 27.01.81.
- 4) Copy of Issue memo No.152951, 166719 401682, 075558, 099433, 168141.
- 5) Remittance Register No.I
- 6) Copy of the Inspector book.

I further submitted that the above records and case properties are received this Court will be disposed this case earlier without any Delay.

This is submitted for kind information."

3. From a reading of the aforesaid report it is seen that, the case was transferred from one Court to another Court and it has come back to the parent Court. The police have also not

filed certain records like the issue memos numbering 25 and also the physical verification statement dated 20.05.1985. After this Court called for a report from the Magistrate, the police have hurriedly produced four witnesses before the trial Court in order to show that the trial has begun. The fact remains that the police had failed to file vital documents along with the final report, on account of which, from 1992 to May 2018, there was no progress in the trial. Right to speedy trial is a right guaranteed by Article 21 of the Constitution of India. The adjudication shows that the petitioner has been

religiously appearing before the trial Court on all the hearing dates for the last 26 years.

In the result, this petition is allowed and the proceedings in C.C.No.157 of 1992 on the file of the Judicial Magistrate, Harur, is hereby quashed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
Kambainallur Police Station
Dharmapuri District.

2.Area Supervisor
Tamil Nadu Civil Supplies Corporation Limited
Morappur, Dharmapuri District.

3.The Judicial Magistrate,
Harur.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Ezhilarasan, Advocate, S.R.No.13102.

Cr1.O.P.No.12000 of 2018

BM 01/08/2018