

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.16056 of 2018

Mlrone Latha

.. Petitioner/A1

Vs

State rep. by

The Inspector of Police,
CB CID PS, Puducherry.

Crime No.338/2006

.. Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the learned Judicial Magistrate No.II, Puducherry to dispose of the discharge petition in CMP.No.1041 of 2016 in CC.No.422 of 2008 pending of his file as expeditiously as possible.

For Petitioner : Mr.G.Vinodh Kumar

For Respondent : Mr.Bharath Chakravarthy,
Public Prosecutor, Puducherry

O R D E R

This Criminal Original Petition has been filed to direct the learned Judicial Magistrate No.II, Puducherry to dispose of the discharge petition in CMP.No.1041 of 2016 in CC.No.422 of 2008.

2.Heard the learned counsel appearing for the petitioner and the learned Public Prosecutor appearing for the respondent.

3.The petitioner is facing prosecution in C.C.No.422 of 2008 before the learned Judicial Magistrate No.II, Puducherry for the offences under Section 120-B, 294, 506[ii] r/w Section 34 of IPC. This Court directed the trial Court to send a report explaining the delay in the disposal of C.C.No.422 of 2008. Accordingly, the trial Judge has sent a report dated 04.07.2018, wherein, it is stated as under :

"I submit that in the meantime on 04.02.2017 the Defacto Complainant Alexander Sambath Abner filed a petition in Cr.M.P.938/2017 u/s.301, 302(2) r/w Section 24(8) of Cr.P.C. to permit him to engage Mr.S.Savariram, Advocate, Puducherry to assist the prosecution in C.C.422/2008. Counter was filed by the respondent on 28.02.2018. Both sides were heard. Posted for orders on 05.07.2018.

I submit that due to the pendency of the petition in Cr.M.P.938/2017, the petition in Cr.M.P.1041/2016 could not be disposed. I submit that on disposal of Cr.M.P.938/17, the enquired Cr.M.P.1041/16 will be taken for enquiry and be disposed off at the earliest.

This is for favour of kind information."

4.From a reading of the report, it is seen that Crl.M.P.No.1041 of 2016 filed under Section 239 Cr.P.C. has been kept pending this long, on the ground that Crl.M.P.No.938 of 2017 that has been filed by the de facto complainant to assist the prosecution is pending.

5.In the opinion of this Court, the trial Court could have allowed the de facto complainant to assist the prosecution in terms of Section 301[2] Cr.P.C. and could have permitted the de facto complainant to file written arguments, after evidence is closed. In other words, the Advocate of the de facto complainant assisting the prosecution, can at the most, file written arguments, after evidence is closed. He has no other role other than that. When law being that, strangely, the trial Court has been adjourning Crl.M.P.No.1041 of 2016 that has been filed under Section 239 Cr.P.C. for discharge.

6.It is represented that only one accused namely, Mlrone Latha [petitioner herein/A1] has filed discharge application in Crl.M.P.No.1041 of 2016 and the other accused namely, V.Albert has not filed any discharge application. If once the discharge application filed by A1 is disposed of, then A2 will file another discharge application and prolong the trial.

7.Therefore, this Court directs the trial Court to give two weeks time to A2 to file a discharge application, if he so desires. If he does not file any discharge application within the time period given by the trial Court, the trial Court shall proceed to hear Crl.M.P.No.1041 of 2016 and also consider whether there are prima facie materials to frame charge both against A1 and A2 and dispose of Crl.M.P.No.1041 of 2016 within a period of four weeks thereafter. If A2 files discharge

application within a period of two weeks time given by the trial Court, the said application shall be considered along with Crl.M.P.No.1041 of 2016 and orders be passed within a period of four weeks thereafter.

With the above direction, this petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Puducherry.

2.The Inspector of Police,
CB CID PS, Puducherry.

3.The Public Prosecutor [Puducherry],
High Court, Madras.

+lcc to Mr.G.Vinodh Kumar, Advocate sr.no.52807

+lcc to The Public Proscutor, Pondicherry, sr.no.53774

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