

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1165 of 2018

Ganesan

... Petitioner

Vs.

State rep. by
The Station House Officer,
Tindivanam All Women Police Station
Tindivanam Villupuram District
(Crime No.7 of 2018)

... Respondent

Prayer:

Criminal Revision Case filed under Section 397 and 401 of the Criminal Procedure Code against the judgment passed in Crl.M.P.No.2581 of 2018 on the file of the learned Judicial Magistrate No.I, Tindivanam dismissing the Crl.M.P.No.2581 of 2018 and pray for setting aside the same.

For Petitioner : Mr.P.L.Vendan

For Respondent : Ms.S.Thankira
Government Advocate (Crl. Side)

O R D E R

The petitioner was implicated in the case in Cr.No.7 of 2018 by the All Women Police Station, Tindivanam, for the offence punishable under Sections 376 and 506(i) of IPC. He was arrested and remanded to judicial custody on 30.06.2018. He filed statutory bail application under Section 167(2)(a)(i) of Cr.P.C. before the lower Court in C.M.P.No.2581 of 2018 on the ground that the respondent law enforcing agency did not file charge sheet within 90 days. Accordingly, he prayed for statutory bail before the lower Court. The said petition was dismissed by the learned Judicial Magistrate No.I, Tindivanam on 01.10.2018. Aggrieved by the same, the petitioner has filed this revision.

2.The learned counsel appearing for the petitioner would submit that the petitioner was arrested and remanded to judicial

custody on 30.06.2018. However, the law enforcing agency filed charge sheet before the lower Court only on the 93rd day, after expiry of 90 days. In view of the above, the petitioner is entitled to be released on statutory bail under Section 167(2) of Cr.P.C. However, the lower Court without considering the same, dismissed the petition seeking statutory bail in a mechanical manner as if the charge sheet was filed in time and the petition u/s 167(2) is not maintainable.

3.The learned Government Advocate (Crl. Side) fairly concede that the total number of days works out to 92 days and the prosecution filed charge sheet only after expiry of 90 days.

4.In view of the un-disputed facts involved in this case, this Court is of the view that the petitioner is entitled for statutory bail under Section 167 (2) of Cr.P.C. Hence, the order dated 01.10.2018 made in Crl.M.P.No.2581 of 2018 by the learned Judicial Magistrate No.I, Tindivanam is hereby set aside.

5.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Tindivanam and on further condition that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police as and when required for interrogation;

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

6.This criminal revision is accordingly allowed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I, Tindivanam.

2.The Station House Officer,
Tindivanam All Women Police Station
Tindivanam Villupuram District
(Crime No.7 of 2018)

3.The Public Prosecutor,
High Court, Madras.

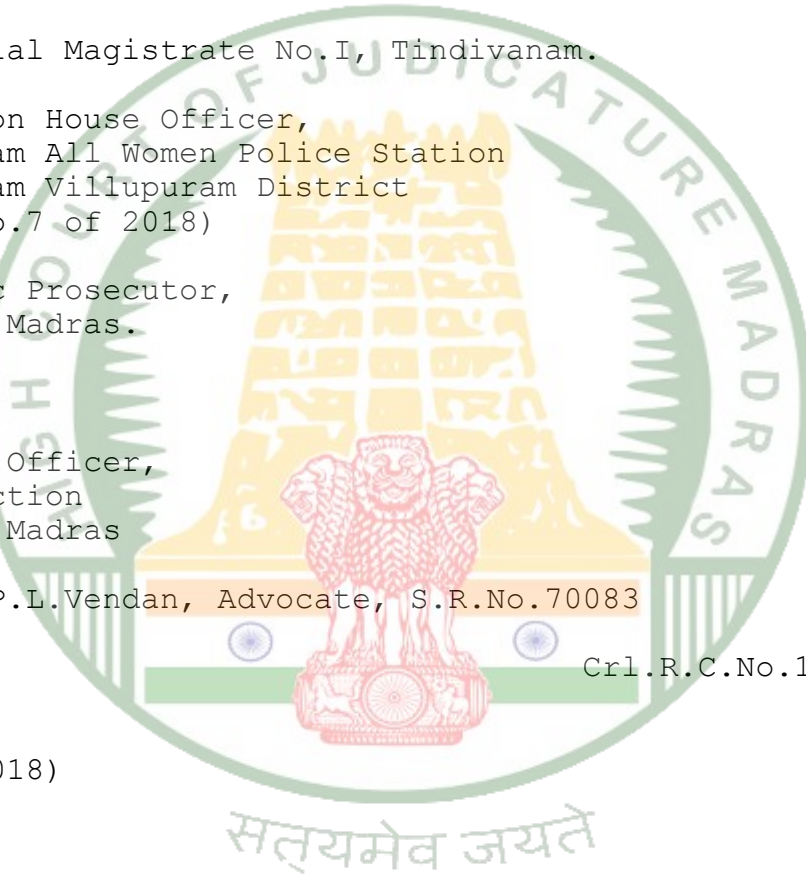
Copy to

The Section Officer,
Criminal Section
High Court, Madras

+1cc to Mr.P.L.Vendan, Advocate, S.R.No.70083

Cr1.R.C.No.1165 of 2018

SSV(CO)
GSP(10/10/2018)



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