



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.16 of 2018

Dennis

: Petitioner

Vs.

1.The State,

Represented by the
Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.
(Crime No.6 of 2004).

2.Senthil Kumar

: Respondents

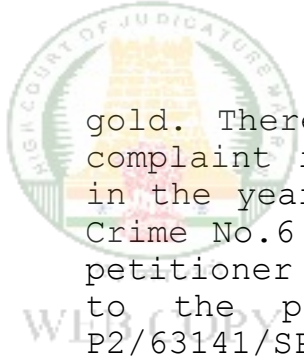
PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records relating to the order passed in Refer Case No.51 of 2005, dated 16.12.2005 on the file of the learned Judicial Magistrate No.II, Kuzhithurai and set aside the same and restore Crime No.6 of 2004 on the file of the first respondent.

For Petitioner : Mr.K.Vamanan
For Respondent No.1 : Mr.M.Asokan,
Government Advocate (Crl.side)

ORDER

On the complaint given by the petitioner, the first respondent police registered a case in Crime No.6 of 2004 under Section 406 of the Indian Penal Code against Senthil Kumar. It is the case of the petitioner that on 14.09.1999, the petitioner had given some gold bar to Senthil Kumar for making jewellery and that Senthil Kumar did not make the jewellery nor return the gold bar. After completing the investigation, the police filed a charge sheet in Crime No.6 of 2004 with a condone delay application, which has been dismissed by the Trial Court, by order dated 16.12.2005. Challenging the said order, the petitioner has filed the present revision in the year 2008 with a delay of 998 days. This Court has condoned the delay in M.P.(MD)No.1 of 2008 and took up the main Criminal Revision Case for disposal.

2. Even, according to the petitioner, the transaction with the accused had taken place between 1999 and 2002. But, however, on a reading of the complaint, it is seen that the petitioner alleged that as on 14.09.1999 the accused had to return 124.925 grams of



gold. Therefore, the date of offence was fixed at 14.09.1999. The complaint in the case itself has been given by the petitioner only in the year 2004 and the First Information Report was registered in Crime No.6 of 2004 on 06.01.2004. In the body of the complaint, the petitioner has further stated that he had already given a complaint to the police on 16.09.2002 and a police notice [N.R. of P2/63141/SP/02] was issued by the police on 29.10.2002. Thus, the police were aware of this transaction even in the year 2002 itself, despite which, the charge sheet was filed only on 16.11.2004. Therefore, there is an enormous delay in prosecuting the accused and hence, the Trial Court cannot be faulted for dismissing the petition filed by the prosecution. That apart, even according to the complainant, he was having business dealings with the accused and only in those circumstances, he has handed over the jewellery to the accused. In such view of the matter, every accused has a right guaranteed under Article 21 of the Constitution of India for a speedy investigation and trial of the offence. In this case, the delay was not on account of any dilatory tactics adopted by the accused. In such view of the matter, this Court is of the view that the impugned order passed by the Trial Court does not require interference and accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate No.II,
Kuzhithurai.
- 2.The Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.R.C.(MD)No.16 of 2018
Dated:-
09.01.2018

SML

JM/SV MMS/SAR 1/24.01.2018/2P/4C

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