



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2018

CORAM :

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD) No.253 of 2018

Jeba Kumar George

... Petitioner/Defacto Complainant

Vs.

1. The State of Tamil Nadu
represented by the Inspector of Police,
Nanguneri Police Station,
Tirunelveli District. ... 1st Respondent/Complainant

2. Ajith Singh
3. Gunabal Jaya Singh
4. Ashok
5. Kani Puspam

[R2 to R5 has been impleaded vide
order dated 31.07.2018 made in Crl.MP(MD)No.
4866/2018 in Crl.R.C.(MD) No.253/2018]

... Respondents 2 to 5 impleaded
parties/Accused 1 to 4

PRAYER: The Criminal Revision Case filed under Section 397 r/w
Section 401 of the Code of Criminal Procedure, to call for the
records pertaining to the order dated 18.08.2017 passed in
S.T.C.No.163 of 2014 on the file of the Judicial Magistrate,
Nanguneri and set aside the same.

For Petitioner	: Mr.C.K.M.Appaji
For R1	: Mr.A.Robinson
	Government Advocate (Crl side)
For R2 to R5	: Mr.P.Santhosh Kumar

ORDER

This petition has been filed to call for the records pertaining
to the order dated 18.08.2017 passed in S.T.C.No.163 of 2014 on the
file of the Judicial Magistrate, Nanguneri and to set aside the
same.

2.Heard the learned counsel appearing for the petitioner and
the learned Government Advocate (Crl.Side) appearing for the first



respondent and the learned counsel appearing for the respondents 2 to 5.

3. Perused the case diary.

4. The revision petition directed against the order of the trial Court passed under Section 258 of Cr.P.C., releasing the accused for non prosecution. The impugned order passed in S.T.C.No.163 of 2014 on the file of the Judicial Magistrate, Nanguneri reads as follows:

A1, A3 absent PFA, A2, A4 present witness not produced in spite of issuance of Final Notice. The case is of the year 2014 and the same cannot be kept in abeyance without any progress. Hence, further proceedings of the case is stopped and accused released under Section 258 Cr.P.C.,

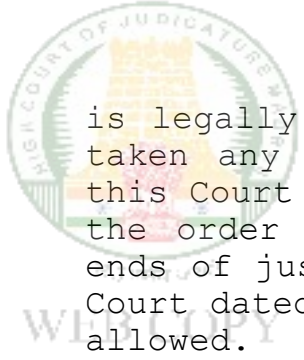
5. The complainant aggrieved by the order passed by the trial Court, is before this Court.

6. The learned counsel for the petitioner contended that by virtue of the impugned order, the accused are literally acquitted without even examining the prime witness. Further, the learned counsel for the petitioner contended that no witness summon was issued to him or any other witnesses for appearance. While so, for the failure of the prosecution / State machinery, he as a victim, deprived of an opportunity to prove the case against the accused persons.

7. On perusal of the case diary produced by the learned Government Advocate (Crl.Side) indicates that after furnishing copy of the document relied by the prosecution, the trial Court has fixed a date on 02.02.2016, to examine L.W1 to L.W3. From that day onwards, the case has been adjourned time and again, the Investigation Officer had not served summon to the witnesses and he has not taken any steps to produce the witness before the Court for prosecuting the trial.

8. The case diary indicates that after 02.02.2016, the case has been adjourned to 26.02.2016 for examining L.W1 to L.W3. Again the case has been adjourned to 26.04.2017, 19.06.2017 and 05.07.2017. Thereafter, the case diary does not reflect the other particulars of hearing dates, however from the impugned order of the trial Court we find in spite of several adjournment witnesses were not produced. The trial Court got frustrated for non production of witnesses hence resorted to pass order under Section 258 Cr.P.C., in which this Court finds no illegality. However, now it is brought to the notice of this Court that it is the lapse of the Investigation Officer, who has not taken any steps to summon the witnesses.

9. The learned counsel for the accused persons, who were impleaded on the direction of this Court would also submit that no summon was served on the witnesses, after waiting for two years the Court has resorted to pass an order under Section 258 Cr.P.C., which



is legally correct and proper. The Investigation Officer, has not taken any steps to summon the witness but the victims are before this Court seeking opportunity to prove the case. Therefore, though the order of the trial Court is legally sustainable, to meet the ends of justice, this Court set aside the order passed by the trial Court dated 18.08.2017. Accordingly, this criminal revision case is allowed.

10.The petitioner herein shall appear before the trial Court on 29.08.2018 and report his presence. The trial Court shall examine him the same day or on any other day of its convenience, and complete the trial on or before 28.09.2018 and report.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The Judicial Magistrate,
Nanguneri.
2. The Inspector of Police,
Nanguneri Police Station,
Tirunelveli District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy To:-

1. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.
2. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.C.K.M.APPAJI, ADVOCATE IN SR No. 77948

MM

TE/RSK/SAR-4 : 20/08/2018 : 3P/8C

Cr1.R.C. (MD) No.253 of 2018
10.08.2018