



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 19.04.2018

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.796 of 2017

T.Michael Stanisprabhu

.. Petitioner

Vs.

The State Rep. By
The Inspector of Police,
Central Police Station,
Thoothukudi District.
(Crime No.148 of 2009)

.. Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to set aside the order dated 16.09.2017 made in Crl.M.P.No.5547 of 2017 in C.C.No.508 of 2009 on the file of the learned Judicial Magistrate No.II, Thoothukudi, Thoothukudi District and splitting up the case for separate trial forthwith.

For Petitioner

: Mr.M.Karunanithi

For Respondent

: Mr.M.Chandrasekar

Additional Public Prosecutor

ORDER

Heard Mr.M.Karunanithi, learned counsel appearing for the petitioner and Mr.M.Chandrasekar, learned Additional Public Prosecutor appearing for the respondent.

2.This appeal has been filed to set aside the order dated 16.09.2017 made in Crl.M.P.No.5547 of 2017 in C.C.No.508 of 2009 on the file of the learned Judicial Magistrate No.II, Thoothukudi, Thoothukudi District and splitting up the case for separate trial forthwith.

3.The petitioner was impleaded in the case in Crime No.148 of 2009 for the offences under Sections 147, 285 of IPC and Section 1, 13(2) of Unlawful Activities (Prevention) Act, 1967, r/w. 7(1)(A) Criminal Law Amendment Act, dated 28.02.2009, subsequently the respondent herein concluded the investigation and filed a final report for the offence under Sections 147, 285 of IPC and Sections 10, 13(2) of Unlawful Activities (Prevention) Act, 1967 before the concerned Magistrate Court and the same was taken on file in C.C.No.508 of 2009 and the same is pending before the learned Judicial magistrate No.II, Thoothukudi.



4. On the side of the petitioner, it is stated that for the past 8 years, the trial Court could not be commenced due to non service of process to accused persons. There are 159 accused. Except the petitioner others were not served with process till now. Even the stage of framing charges could not be reached due to the absence of other accused. The petitioner is A5 in that case.

5. On the side of the petitioner, it is stated that the speedy trial is a fundamental right. Though speedy trial is not specifically enumerated as fundamental right, the trial Court dismissed the petition on the ground that splitting up the case will lead to multiplicity of proceedings without considering that the petitioner is dragging on to the Court for the past 8 years and prayed that this petition is to be allowed.

6. On the side of the respondent, it is stated that due to some political agitation against the Kudankulam project, the case was registered against 159 accused, however, 55 accused are appearing before the Court and the prosecution was not able to serve summons upon the other accused. He would further stated that two months time may be granted to serve summons upon the other accused also.

7. Records perused. The offence is said to have been committed on 28.02.2009 and the Chargesheet has been filed on 13.09.2009. There is no use in keeping the case for years together without any progress. Already 9 years passed without any progress. In this situation, splitting up the case is the only possible remedy. Hence, the learned Judicial Magistrate No.II, Thoothukudi is directed to split up the case against the accused who are not present before the Court, and to proceed with the case with the accused those who appeared before the Court, within a period of one month from the date of receipt of copy of this order.

8. With the above direction, this petition is disposed of. The Registry is directed to send this order copy to the lower Court as expeditiously as possible.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

<https://hccourtsonline.mca.gov.in/cases> The learned Judicial Magistrate No.II, Thoothukudi.



2. The Inspector of Police,
Central Police Station,
Thoothukudi District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to

The Section Officer, (2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

Mrn

VB/SKN/RSK/SAR4/13.06.2018/3P/6C

Crl. R.C. (MD) No. 796 of 2017
19.04.2018