



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl OP(MD)No.12158 of 2018

and

CrlMP(MD)Nos.5598 and 5599 of 2018

R.K.Sundararajan

... Petitioner

Vs.

1.The State represented by
The Inspector of Police,
District Crime Branch,
Ramanathapuram,
Ramanathapuram District.

2.K.Podhuvan
Deputy Inspector of Education,
R.S.Mangalam,
Ramanathapuram District.

...Respondents

PRAYER:- Petition filed under Section 482 of Criminal Procedure Code, to call for records pertaining to C.C.No.83 of 2015 on the file of the Learned Judicial Magistrate-II, Ramanathapuram and quash the same.

For Petitioner : Mr.B.Saravanan
For Respondents : Mrs.S.Bharathi,
Government Advocate (Crl Side)

ORDER

This petition has been filed seeking to quash the proceedings in CC No.83 of 2015, pending on the file of the Judicial Magistrate -II, Ramanathapuram.

2.The petitioner has been arrayed as A-3 in the final report. The final report was filed for the alleged offence under Sections 409, 468, 119, and 120(b) of IPC.

3.This Court notes that the FIR in this case was registered in the year 1988. The final report was filed in the year 1989. Subsequently, there was absolutely no progress in the case. The learned Counsel for the petitioner brought to the notice of this Court the 'B-Diary' entries, which shows that the case has been adjourned from time to time awaiting records. Therefore, this Court called for a report from the Judicial Magistrate-II, Ramanathapuram. The Judicial Magistrate -II, Ramanathapuram submitted a report



before this Court, in which it has been stated as follows:

"I most humbly submit that originally the case was taken on file before I Class Magistrate Court, Devkottai. From Devakottai Court, the case was transferred to District Munsif cum Judicial Magistrate Court, Tirunelveli and the case was renumbered as 40 of 2000, where trial was started, during the trial the prosecution side P.W.1 to P.W.20 were examined and Ex.P.1 to Ex.P.130 were marked. On 23.03.2000 the prosecution side evidence closed and posted for defence side evidence. In the meanwhile Ex. P.1 to 122 and Ex.P.122 were missing for which enquiry was conducted. In A-1, 03.11.2007 dated 20.06.2007 by the Hon'ble Principal District, Ramanathapuram. On 18.07.2007 the District Munsif cum Judicial Magistrate Court, Thiruvadanai sent notice the D.C.B Ramanathapuram to produce the documents. On 30.10.2008 issued notice thereby calling upon complainant D.C.B., Ramanathapuram to produce the available documents on 14.11.2008. Pursuant to the notice the Complainant D.C.B, Ramanathapuram submitted a reply on 12.03.2009 that they did not have either original or copy of the documents. On 14.03.2009, reconstruction of bundle was ordered and notice was issued to the complainant D.C.B, Ramanathapuram and to the accused.

I most humbly submit that, in 2013 the bundle was sent to the Judicial Magistrate No.II, Ramanathapuram from District Munsif cum Judicial Magistrate Court, Thiruvadanani and the same was received on 03.12.2013 and taken on file on 06.08.2015 and the case renumbered as 83 of 2015.

I most humbly submit that no records pertaining to the Ex.P.1 to Ex.P.122 and Ex.P.124 have produced neither by the Complainant D.C.B, Ramanathapuram nor by the accused side therefore, the reconstruction is pending. Thus I submit the additional report."

4.From the above it is clear that out of 130 documents, 123 documents are missing. The Court below was not able to reconstruct the bundle since, the original nor copy is available with the Police or with the Court.

5.The petitioner who was arrayed as A-3 in the final report is now aged about 88 years. He has been made as an accused more on the ground that there was dereliction of duty on his part. The final report only proceeds to allege that the petitioner ought to have examined the materials that were available in the Noon Meal Scheme Centre and he failed to do that. There is enormous delay in this



case, in completing the trial. This delay has not been caused by the petitioner herein. The petitioner has been attending the Court right from the year 1989 and thereafter there has been no progress for the last so many years.

6. It will be relevant to extract the judgment of this Court dated 21.08.2018 in S.Kumaresan, Vs. The State, reported in 2018 -2- L.W(CRL) 455 as here under.

" 18. The following principles emerge from the above judgments:

(a) A reasonable expeditious trial is integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India.

(b) The guarantee of a speedy trial is intended to relieve the accused of the anxiety and public suspicion due to unresolved criminal charges and to provide reasonably prompt administration of justice.

(c) This right is applicable not only to the criminal proceedings in the Court, but also includes within its sweep preceding Police investigation as well.

(d) The right to a speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of case.

(e) When the Court feels, having regard to the nature of the offences and other relevant circumstances, quashing of proceedings may not be in the interest of justice, it is open to the Court to make an appropriate order as it may deem it just and equitable including fixing of time frame for conclusion of trial.

(f) The reason for the delay is one of the factors, which the Courts should assess in determining as to whether, a particular accused has been deprived of his or her right to a speedy trial and if the delay is attributable to the accused, any length of delay will not be sufficient to quash the proceedings since the accused cannot take advantage of his own wrong.

(g) The unintentional and unavoidable delays or administrative factors, over which, the prosecution has no control, as a result of which, there is failure to complete the trial within a reasonable time, cannot be said to be violative of the accused's right to a speedy trial and such delays need to be excluded, while deciding, whether there is unreasonable delay and unacceptable delay.

(h) The length of delay does not give rise to per se conclusion of violation of right to a speedy trial and the conclusion can



be arrived at only on a case to case basis and there cannot be a universal rule in this regard."

7.The principles enunciated in the above judgment will clearly apply to the facts of the present case.

8.Accordingly, the proceedings in CC No.83 of 1985, on the file of the Judicial Magistrate-II, Ramanthapuram is hereby quashed insofar this petitioner is concerned. The Court below is directed to take steps to reconstruct the case bundle and proceed further with the case insofar as other accused persons are concerned.

9.This Criminal Original Petition is allowed with the above direction. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.The Judicial Magistrate-II,
Ramanathapuram.

2.The Deputy Inspector of Education,
R.S.Mangalam,
Ramanathapuram District.

3.The Inspector Of Police,
District Crime Branch,
Ramanathapuram,
Ramanathapuram District.

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

+1CC TO MR.B.SARAVANAN, ADVOCATE IN S.R.NO.88470.

DSK

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