

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.OP.No.8162 of 2019

and CRL.M.P.No.4402 of 2019

1.L.Rajendiran

2.G.Annamalai

3.V.Kanniappan

4.S.Mani

5.E.Durai

6.D.Mani

7.M.Velayutham .... Petitioners/Accused

Vs.

1.The Inspector of Police,  
Thellar Police Station,  
Tiruvannamalai District. ....Respondent/Complainant

2.R.Kathiresaramunsadhasar  
President,  
Public People Welfare Association,  
Kilputhur Village, Vandavasi Taluk,  
Tiruvannamalai District. .... Respondent/De-facto  
complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in Cr.No.200 of 1997 in C.C.No.58 of 1998 pending on the file of District Munsif cum Judicial Magistrate Court at Vandavasi and quash the same.

For Petitioners : Mr.T.V.C.Kartheeban

For Respondent : Mr.M.Mohamed Riyaz for R1  
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.58 of 1998, on the file of the learned District Munsif cum Judicial Magistrate Court at Vandavasi.

2.The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.200 of 1997 for the offence under Sections 147, 355, 506(i) of IPC, as against the petitioners and filed a charge sheet in C.C.No.58 of 1998 before the District Munsif cum Judicial Magistrate Court at Vandavasi. He further submitted that no Non-Bailable Warrant as against the petitioners even though the trial Court has not proceeded with the trial. Hence, he prayed to quash the same.

3.The learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to attract the offence under Sections 147, 355, 506(i) of IPC. All the points raised by the petitioners have to be considered only during the trial. Therefore, he prayed to dismiss this petition.

4.Heard Mr.T.V.C.Kartheeban, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and perused the materials available on record.

5.It is seen from the records that the case is pending from the year 1998 even without commencing trial. Therefore, this Court directs the trial Court to send the report stating the reason for not commencing trial in C.C.No.58 of 1998. Accordingly, the trial Court has sent the report to this Court is extracted hereunder:

| S.No | Date                           | Adjudication                                            |
|------|--------------------------------|---------------------------------------------------------|
| 1    | 14.05.1998                     | Taken on file for the offence u/s.147, 355 & 506(2) IPC |
| 2    | 10.09.1998                     | Charges were framed.                                    |
| 3    | 10.09.1998<br>to<br>03.03.2005 | Summons pending for examination of prosecution witness. |
| 4    | 03.03.2005                     | A1 & A4 absent. NBW was issued against them.            |

| S.No . | Date       | Adjudication                                                                                               |
|--------|------------|------------------------------------------------------------------------------------------------------------|
| 5      | 28.10.2005 | NBW against A4 was recalled.                                                                               |
| 6      | 30.01.2006 | NBW against A1 was recalled, hence case was posted to trial.                                               |
| 7      | 01.06.2006 | A1 & A4 absent. NBW was issued against them which had been pending till 18.08.2008.                        |
| 8      | 17.07.2008 | A3 to A5 & A7 absent. NBW was issued against them.                                                         |
| 9      | 30.07.2008 | NBW as against A3, A5 & A7 was recalled.                                                                   |
| 10     | 18.08.2008 | NBW as against A4 was recalled and the case posted for examination of prosecution witness till 11.06.2009. |
| 11     | 29.07.2009 | A2, A3, A5 to A7 absent. NBW was issued against them.                                                      |
| 12     | 19.08.2009 | NBW as against A2 to A7 was recalled.                                                                      |
| 13     | 20.09.2009 | A4 absent. NBW was issued against him.                                                                     |
| 14     | 07.10.2010 | A5 absent. NBW was issued against him.                                                                     |
| 15     | 18.03.2010 | NBW as against A5 was recalled.                                                                            |
| 16     | 23.06.2010 | NBW as against A4 was recalled.                                                                            |
| 17     | 02.11.2010 | NBW as against A1 was recalled. Hence the case was posted for trial on 24.11.2010.                         |
| 18     | 24.11.2010 | A4 absent. NBW was issued against him.                                                                     |
| 19     | 22.12.2010 | All the accused were absent. Hence NBW issued against them.                                                |
| 20     | 20.03.2011 | NBW against A2, A3, A5 to A7 was recalled. Hence case posted for execution of NBW against A1 & A4.         |
| 21     | 20.07.2011 | All the accused were absent. Hence NBW issued against them.                                                |

| S.No . | Date       | Adjudication                                                                                                                                                                                                                           |
|--------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 22     | 11.08.2011 | NBW against A2, A3, A5 to A7 was recalled. Hence case posted for execution of NBW against A1 & A4.                                                                                                                                     |
| 23     | 29.05.2012 | NBW as against A1 was recalled.                                                                                                                                                                                                        |
| 24     | 30.05.2012 | NBW as against A4 was recalled. Hence the case posted for trial to 05.07.2012.                                                                                                                                                         |
| 25     | 05.07.2012 | Lw1 was examined, he deposed that one Mr.Rajendiran also involved in crime and pleaded to add him as accused. Hence he was added as accused and issued summon to him. The case posted for appearance of Mr.Rajendiran till 22.08.2013. |
| 26     | 22.08.2013 | A1 & A4 absent. NBW was issued against him and the same posted for execution of NBW as against A1 & A4 till 26.11.2014.                                                                                                                |
| 27     | 26.11.2014 | NBW as against A1 was recalled.                                                                                                                                                                                                        |
| 28     | 10.12.2014 | A2 & A7 absent. NBW was issued against them.                                                                                                                                                                                           |
| 29     | 08.01.2015 | NBW as against A2 & A7 was recalled. Hence the case posted for execution of NBW as against A4.                                                                                                                                         |
| 30     | 24.02.2016 | A1 absent. NBW was issued against him.                                                                                                                                                                                                 |
| 31     | 30.11.2016 | NBW against A1 & A4 was recalled. Hence the case posted for appearance of the accused Mr.Rajendiran on 23.12.2016 and 09.01.2017.                                                                                                      |
| 32     | 10.02.2017 | A4 absent. NBW was issued against him.                                                                                                                                                                                                 |
| 33     | 28.07.2017 | A1 to A3 & A5 to A7 absent. NBW was issued against them and the same posted for execution till 02.08.2018.                                                                                                                             |
| 34     | 02.08.2018 | NBW as against A2, A3, A5 & A6 was recalled.                                                                                                                                                                                           |
| 35     | 16.08.2018 | NBW as against A7 was recalled.                                                                                                                                                                                                        |

| S.No . | Date       | Adjudication                                                                                                                 |
|--------|------------|------------------------------------------------------------------------------------------------------------------------------|
| 36     | 26.10.2018 | NBW against A1 & A4 was recalled. Hence the case posted for further proceedings on 19.11.2018 and 30.12.2018.                |
| 37     | 03.12.2018 | All the accused were absent. NBW was issued against them and posted for execution on 07.01.2019.                             |
| 38     | 07.01.2019 | NBW as against A2, A3 & A5 was recalled.                                                                                     |
| 39     | 22.01.2019 | NBW as against A6 was recalled. Hence the case posted for execution of NBW as against A1, A4 & A7 to 11.02.2019, 29.03.2019. |
| 40     | 29.03.2019 | the case posted for execution of NBW as against A1, A4 & A7 to 06.04.2019.                                                   |

6.It is also seen from the records that the Non-Bailable Warrant is pending as against A1, A4 & A7. Even though, the learned Magistrate has directed the Police to execute the Non-Bailable Warrant, but the first respondent has not taken any steps to execute the Non-Bailable Warrant. When the Non-Bailable Warrant is pending as against the petitioners, they are not entitled for any relief.

7.Considering the above facts and circumstances of the case, this Court is not inclined to entertain the quash petition. However, the first respondent is directed to execute the Non-Bailable Warrant as against the petitioners/accused within a period of two weeks from the date of receipt of copy of this order. Thereafter, the learned Magistrate is directed to proceed with the trial and complete the same within a period of three months from the date of receipt of a copy of this order.

8.With the above observation and direction, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

pam  
To

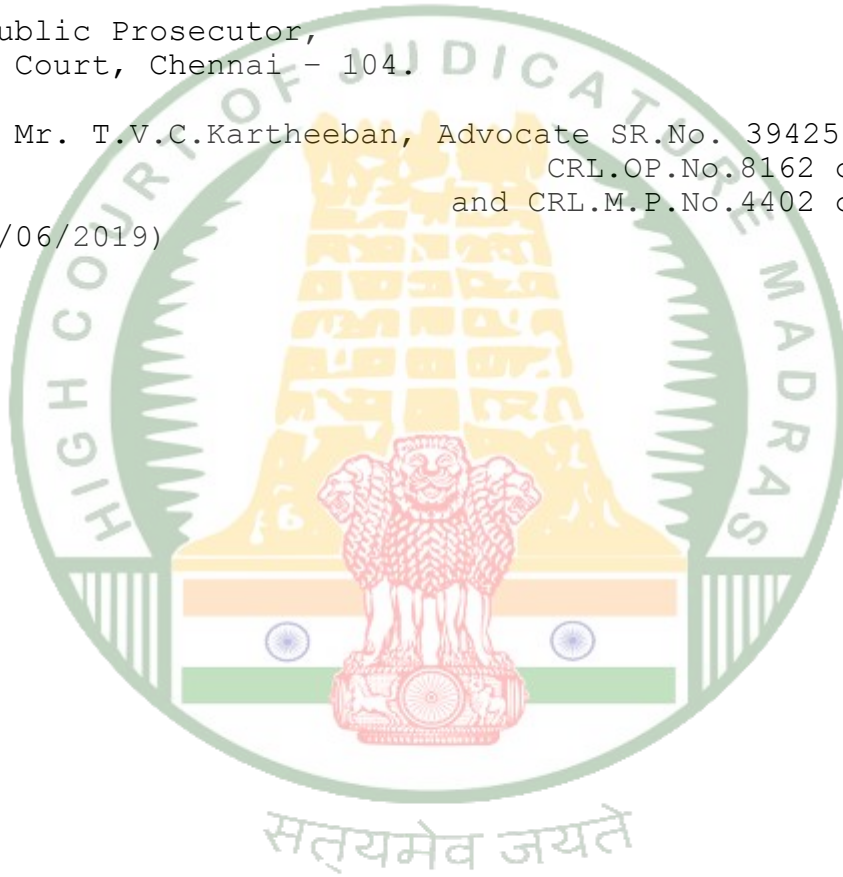
1.The District Munsif cum Judicial Magistrate Court,  
Vandavasi.

2.The Inspector of Police,  
Thellar Police Station,  
Tiruvannamalai District.

3.The Public Prosecutor,  
High Court, Chennai - 104.

+1cc to Mr. T.V.C.Kartheeban, Advocate SR.No. 39425  
CRL.OP.No.8162 of 2019  
and CRL.M.P.No.4402 of 2019

A.SK(21/06/2019)



WEB COPY