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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Cr1.O.P.[MD]No.4987 of 2019

and

Cr1.M.P.(MD)No.3129 of 2019

Superintendent of Customs,
Central Intelligence Unit,
1, Williams Road, Cantonment,
Tiruchirapalli-620 001.
(in CIU OR.No.1/2016)

: Petitioner

/Vs./

1.Mohamed Syed Mustafa
2.L.Abuthahir
3.Sureshkumar
4.PL.Annamalai
5.Selvaraj

: Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 08.03.2019 passed by the learned Additional District and Sessions Judge / Presiding Officer Special Court for E.C., and NDPS Act Cases, Pudukkottai in Cr.M.P.No.444 of 2019 in C.C.No.66 of 2016 and consequently direct the Additional District and Sessions Judge / Presiding Officer Special Court for E.C. And NDPS Act Cases, Pudukkottai to allow the prosecution to examine Sri.Rakesh K.Chitkara as additional witness.

For Petitioner : Mr.C.Arulvadivel @ Sekar

ORDER

The present petition is filed challenging the order dismissing a petition filed under Section 309 Cr.P.C..

2. The case is lodged based on the complaint preferred by the Superintendent of customs. The offence involves is one under NDPS Act. According to the learned counsel for the petitioner, on 27.02.2019, the prosecution has filed petitions to recall P.W.3 and examine two additional witnesses namely Ravi Choudhary and another Rakesh K. Chitkara. The petitions were allowed on that day. On 06.03.2019, P.W.3 was recalled and fully examined. On 08.03.2019, one of the additional witness namely Ravi Choudhary was examined as



P.W.13. However, the other witness namely Rakesh K.Chitkara was not present as summons could not be served on him.

3. The learned counsel for the petitioner submitted that having allowed the prayer of the petitioner to examine two new witnesses, denying an adjournment that too only because the witness summon could not be served on the said Rakesh K.Chitkara may not serve the cause of substantial justice.

4. This Court perused the entire papers, more particularly the impugned order. Even before the trial Court no objection was raised on behalf of the accused persons / respondents except that it is appeared to have been argued on their behalf that they have been in judicial custody since 28.04.2016. Necessarily the arguments on their side could not be any different from the one made before the trial Court. After recording this, the trial Court makes a statement that the appearance of the additional witness is uncertain and that six months time has been fixed by this Court for completing the trial, which is also likely to expire.

5. To a specific query, the learned counsel for the petitioner submitted that the case is posted today (i.e., 01.04.2019) for final arguments and if Rakesh K.Chitkara is allowed to be examined, then the entire arguments can only be concluded within a couple of weeks from today (i.e., 01.04.2019). Fixing the time to the trial Court for disposing of a case is essentially made to draw the attention of the trial Court for disposing of the case as expeditiously as possible. The trial of a case cannot match rocket science and some times the way we live can upset the time schedule prescribed by the Court. Meeting the time schedule as fixed by this Court should necessarily have to be done without subverting the cause of substantial justice. If the material on record is perused, it is seen that the trial Court indeed has decided that Rakesh K.Chitkara is allowed to be examined, but to state that his appearance is uncertain may not be appropriate. After all the witness must be served with summons and it may require some time to travel.

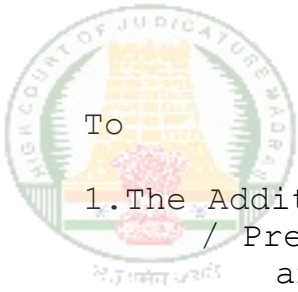
6. Therefore, this Court allows this petition. The trial Court is now directed to issue fresh summons fixing a particular date and granting the witnesses reasonable time to travel to the Court in order the trial of the case is taken to its logical end. The petitioner is directed to strictly comply with the time schedule, which the trial Court may now fix. Consequently, connected miscellaneous petition is closed.

Sd

ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR (CS IV)



To

1.The Additional District and Sessions Judge
/ Presiding Officer Special Court for E.C.,
and NDPS Act Cases, Pudukkottai.

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1CC TO MR. C. ARUL VADIVEL ALIAS SEKAR, ADVOCATE SR 58235

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