



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P. (MD)No.8336 of 2019

and

Cr1.M.P. (MD)No.5210 of 2019

1.M.Sivasamy
2.S.Jeyaraman
3.S.Prabhakaran

... Petitioners/Petitioners/Accused 1 to 3

Vs.

1.The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam Taluk,
Maduari.

...1st Respondent/Complainant

2.Nagarajan

...2nd Respondent/Protest Petitioner

3.Pandi

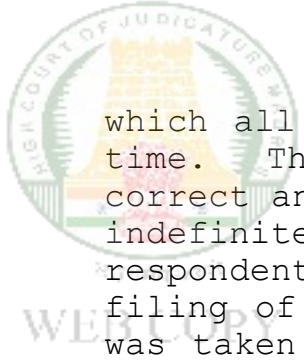
...3rd Respondent/4th Accused

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order dated 15.05.2019 in Cr.M.P.No.1600 of 2019 in C.C.No.71 of 2018, on the file of the Judicial Magistrate, Thirumangalam and split up the case of the petitioners and direct the Judicial Magistrate, Thirumangalam to dispose of C.C.No.71 of 2018, as time frame fixed by this Court.

For Petitioners	: Mr.C.Jeganathan
	For M/s.Veera Associates
For Respondents	: Mr.A.Robinson
	Govt. Advocate (Cr1. Side) for R1

O R D E R

In C.C.No.71 of 2018, on the file of the learned Judicial Magistrate, Thirumangalam, there are totally four accused namely., the petitioners herein and the third respondent herein. It appears that the third respondent's whereabouts are presently not known. He has been absconding for quite sometime. As a result, the trial in this case could not be proceeded. Therefore, the petitioners want the case to be split up as far as they are concerned. The reason cited by them is that on account of the pendency of this criminal case, the second petitioner who is an employee in TNSTC is being put to great prejudice and hardships. Therefore, an application to this effect was filed before the Court below. But when the impugned order, the learned Trial Magistrate declined to grant the relief. The learned Trial Magistrate taken a view that it would be in the interest of justice to conduct a single trial in



which all the four accused would face the prosecution at the same time. The approach of the learned Trial Magistrate is no doubt correct and sound. But then, the petitioner cannot be made to wait indefinitely. It is seen that the complaint given by the second respondent was originally closed as mistake of fact. Only on filing of the protest petition by the second respondent, the case was taken on file. As on date, the case is being conducted as a private complaint. Of course in a private complaint also, the accused are bound to appear. If they do not appear and abscond, the learned Judicial Magistrate will have to issue Non Bailable Warrant. In this case, the learned Trial Magistrate is directed to issue Non Bailable Warrant against the third respondent herein, if he does not appear on the next hearing date. This Court gives a direction to the first respondent to secure the third respondent within a period of four weeks from the date of receipt of a copy of the NBW. In the event of failure on the part of the first respondent to secure the third respondent herein, the case against the petitioners will be split up thereafter.

2. With this direction, this criminal original petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

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To:

1. The Judicial Magistrate,
Thirumangalam
2. The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam Taluk,
Maduari.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.VEERA ASSO., Advocate Sr. No. 72089

Crl.O.P. (MD) No. 8336 of 2019
27.06.2019

DB(CO)

TR (09.07.2019) 2P 5C