



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.11.2019
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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CRL.O.P.(MD)No.21179 of 2016
and
CRL.M.P.(MD)Nos.10834 & 10835 of 2016

Pradeep @ Kuttan

... Petitioner/Accused No.2

Vs.

The State of Tamil Nadu rep. by,
The Inspector of Police,
Prohibition and Enforcement Wing, Nagercoil,
In Charge of Prohibition Enforcement Wing,
Thuckalay.

... Respondent/Complainant

PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records relating to the case in C.C.No.1 of 2006 pending on the file of the learned District Munsif cum Judicial Magistrate, Eraniel and quash the same against the petitioner herein.

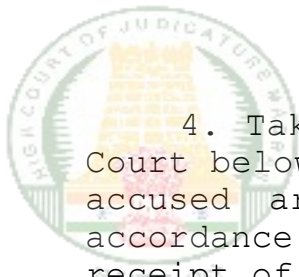
For Petitioner : Mr.M.Boopathi Pandiyan
For Respondent : Mr.A.Robinson,
Government Advocate(Crl.Side)

O R D E R

The petitioner is facing trial in C.C.No.1 of 2006 on the file of the District Munsif cum Judicial Magistrate, Eraniel for the offences under Sections 3(k) of TNSPC Rule 1984 r/w. 4(1)(aaa), 14(A), 21, 24, TNP Act and Rule 6 and 7 of TNRS Rule 2000.

2. The grievance of the accused is that even though the case was registered in the year 2005 and cognizance was taken in the year 2006, for 13 long years, there is no progress at all. He rightly contends that his fundamental right to speedy trial has been violated. The petitioner's counsel drew my attention to the decision of the Hon'ble Supreme Court reported in (2009) 3 SCC 355 (Vakil Prasad Singh V. State of Bihar).

3. The learned Government Advocate(Crl.Side) states that on account of abscondance of the accused, the trial could not be concluded. If that be so, the Court below ought to have split up the case in respect of the available accused and concluded the same.



4. Taking note of the fundamental right of the petitioner, the Court below is directed to split up the case as far as the available accused are concerned and conclude the same on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.

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5. The criminal original petition stands disposed of, on these terms. The petitioner is said to be a resident of Kerala. Therefore, his personal appearance before the Court below is dispensed with.

6. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through his counsel. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The District Munsif cum Judicial Magistrate, Eraniel.
2. The Inspector of Police,
Prohibition and Enforcement Wing, Nagercoil,
In Charge of Prohibition Enforcement Wing, Thuckalay.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.BOOPATHI PANDIYAN, Advocate (SR-100413[F] 22/11/2019)

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pmu

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