

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2020

CORAM:

THE HONOURABLE Mr.JUSTICE **P.N.PRAKASH**

Crl.R.C.No.300 of 2020
and Crl.M.P.No.2258 of 2020

Sugumar

Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
K-6, T.P.Chatram Police Station,
Chennai – 10.

Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to
set aside the order dated 10.10.2019 passed in C.C.No.7466 of
2019 on the file of the V Metropolitan Magistrate Court, Egmore,
Chennai.

For Petitioner

:

Mr.M.K.Bhoopathy Rajan

For Respondent

:

Mr.G.Ramar
Government Advocate
(Crl.Side)

ORDER

This criminal revision has been filed seeking to set aside the order dated 10.10.2019 passed in C.C.No.7466 of 2019 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai.

2. On the complaint lodged by Dhanasekar, the respondent/police registered a case in Crime No.434 of 2015 on 05.03.2015 in respect of an occurrence that is said to have taken place on 16.02.2015, for the offences under Sections 341, 147 and 323 IPC, against the petitioner.

3. During the pendency of the investigation, the petitioner filed CrI.O.P.No.18732 of 2019 under Section 482 Cr.P.C., for direction to the respondent/police to conduct the investigation and file a final report in Crime No.434 of 2015, in which, this Court, by order dated 16.07.2019, had directed the police to either file a final report or closure report, as the case may be within three months from the date of receipt of a copy the order.

4. It appears that the police completed the investigation and filed a final report before the V Metropolitan Magistrate Court, Egmore, Chennai, with a delay, for which, the Investigating Officer filed a petition dated 23.09.2019 for condonation of delay under Section 473 Cr.P.C. The trial Court, without hearing the petitioner, has condoned the delay, by the impugned order dated 10.10.2019 and issued processes to the petitioner. The petitioner appeared before the trial Court and filed a petition for rejection of final report under Section 468 (2) Cr.P.C., for which, the learned Additional Public Prosecutor has filed an affidavit and the same is pending.

5. Challenging the impugned order dated 10.10.2019, the petitioner has preferred the present criminal revision invoking Section 397 r/w 401 Cr.P.C.

6. Heard Mr.M.K.Bhoopathy Rajan, learned counsel for the petitioner and Mr.G.Ramar, learned Government Advocate (Cr1.Side) for the respondent/State.

7. The trial Court has the power to condone the delay

under Section 473 Cr.P.C. The only grievance of the petitioner is that he was not heard before the impugned order dated 10.10.2019 was passed.

8. This Court leaves open the question, whether the accused should be heard in a condone delay petition, to be decided in an appropriate case.

9. In the instant case, this Court is of the view that interests of justice will be served, if the impugned order dated 10.10.2019 passed in C.C.No.7466 of 2019 on the file of the V Metropolitan Magistrate Court, Egmore, Chennai, is set aside and an opportunity is given to the petitioner to contest the condonation delay petition filed by the Investigating Officer and it is ordered accordingly.

10. In the result, this criminal revision is allowed with the following directions:

- (i) the petitioner shall appear before the V

Metropolitan Magistrate Court, Egmore, Chennai, at 10.30 a.m. on 19.03.2020 and execute a bond under Section 88 Cr.P.C. for a sum of Rs.10,000/- with two sureties, of whom, one should be a blood relative, for a like sum to the satisfaction of the V Metropolitan Magistrate Court, Egmore, Chennai; and

(ii) on such appearance, the learned V Metropolitan Magistrate, Egmore, Chennai, shall afford an opportunity to the petitioner to file his counter in the condonation delay petition filed by the Investigating Officer that is already on the file and pass suitable order in accordance with law.

Consequently, connected criminal miscellaneous petition is closed.

nsd

21.02.2020

NOTE: Issue copy of this order by 24.02.2020.

WEB COPY

P.N.PRAKASH, J.

nsd

To

1. The V Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
K-6, T.P.Chatram Police Station,
Chennai – 10.



Crl.R.C.No.300 of 2020

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