

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2020

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.14319 of 2020

R.P.Iyyapphan

...Petitioner

Vs.

The State represented by,
The Inspector of Police,
Vigilance and Anti Corruption,
Chennai City-I, Dett,
Chennai-19.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the learned Chief Judicial Magistrate cum Special Judge, Thiruvallur to defer trial in C.C.No.12 of 2019 on the file of learned Chief Judicial Magistrate cum Special Judge, Thiruvallur till normal resumption of physical hearing of Courts.

For Petitioner : Mr.R.Vivekananthan
For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioner/accused, who is facing trial in C.C.No.12 of 2019, has filed the petition to defer the trial pending on the file of the Chief Judicial Magistrate cum Special Judge Court, Thiruvallur.

2.The learned counsel for the petitioner submitted that PW1 in C.C.No.12 of 2019 was examined on 09.03.2020, on the same day, he was cross examined and the case was posted for examination of LW2/ decoy and LW3/accompanying witness. Due to the prevailing pandemic situation, this Court issued guidelines vide Notification No.192 of 2020, wherein the advocates, who are 65 years and above are exempted and advised not to appear before the Court considering the risk of their health. Admittedly, in this case Mr.V.T.Sreedharan, learned counsel, who is the

respected member of the bar is leading the case, is aged about 75 years. He further submitted that this Court in suo motu W.P.No.7413 of 2020 passed an order extending the stay of the interim orders till 30.09.2020. The petitioner invited an order in W.P.No.1804 of 2020, dated 19.02.2020, wherein this court had given direction to the learned Chief Judicial Magistrate cum Special Judge, Thiruvallur to dispose the case in C.C.No.12 of 2019, within a period of three months from the date of receipt of copy of that order and further, observed that the trial shall be conducted on a day to day basis, without granting any unnecessary adjournments.

3.The learned counsel for the petitioner before the trial Court filed a memo before the trial Court, putting forth the difficulty in compliance of the order of this Court due to the prevailing situation. The trial Court by order dated 07.09.2020 rejected the memo, citing the order of this Court in W.P.No.1804 of 2020, dated 19.02.2020 and further, the trial Court advised the learned counsel for the petitioner to conduct the trial through video conference. The learned counsel for the petitioner submitted that conducting of trial through video conference would greatly hamper effective cross examination of the witnesses and it is not possible to conduct cross examination by that manner and great prejudice would be caused. In this case LW2/decoy and LW3/accompanying witness are the prime witnesses. The physical examination of LW2 and LW3 in chief and cross would be imperative to prove the case of the petitioner. Further submitted that if the case is transferred to the file of the Special Judge cum Chief Judicial Magistrate Court, Chengalpet, it would be convenient for the learned counsel for the petitioner to conduct the trial, since the senior member of bar hails from Chengalpet. This accommodation can be made by considering the age of the learned counsel and his risk in travel and to conduct physical trial without much delay and to comply the order of this Court in completing the trial within a period of three months.

4.The learned Additional Public Prosecutor appearing for the respondent on instructions submitted that the prosecution has got no objection for transferring the case in C.C.No.12 of 2019 from the file of the Special Judge cum Chief Judicial Magistrate Court, Thiruvallur to the file of the Special Judge cum Chief Judicial Magistrate Court, Chengalpet and its only endeavour is that the trial to be concluded without any further delay.

5.Considering the submissions and on perusal of the materials, it is seen that this Court by order dated 19.02.2020 in W.P.No.1804 of 2020, directed the trial Court to complete the trial within a period of three months from the date of receipt of the copy of the order. In this case, PW1 has been examined and 20 witnesses listed in the charge sheet to be examined.

6. On considering the undertaking given by the learned counsel and the senior member of bar, who is conducting trial will not face any difficulty, if the case is transferred to the file of the Special Judge cum Chief Judicial Magistrate Court, Chengalpet and the prosecution has got no objection for the transfer, this Court is inclined to transfer the case in C.C.No.12 of 2019 from the file of the Special Judge cum Chief Judicial Magistrate Court, Thiruvallur to the file of the Special Judge cum Chief Judicial Magistrate Court, Chengalpet.

7. This Criminal Original Petition is disposed of, with the following directions.

(i) The learned Chief Judicial Magistrate cum Special Judge, Thiruvallur is directed to forward the entire records in C.C.No.12 of 2019 to the file of the Special Judge cum Chief Judicial Magistrate, Chengalpet.

(ii) The commencement of three months to complete the trial in C.C.No.12 of 2019 would start from the month of October 2020, in any case, the trial to be completed by December 2020.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Judge cum Chief Judicial Magistrate,
Thiruvallur.
2. The Special Judge cum Chief Judicial Magistrate,
Chengalpet.
3. The Inspector of Police,
Vigilance and Anti Corruption,
Chennai City-I, Dett,
Chennai-19.

4.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Vivekananthan, S.R.No.29980

CrI.O.P.No.14319 of 2020

LN(CO)
KKV/21/09/2020



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