



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.4247 of 2020

Jennath Banu

... Petitioner/wife of Accused No5

Vs.

1.State represented through
The Inspector of Police,
Tenkasi Police Station,
Tenkasi.
Tirunelveli District.
(In Crime No.19 of 2020)

...Respondent/Complainant

2.Mathavan

...Respondents/Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of the remand extension order dated 11.02.2020 in Crime No.19 of 2020 on the file of the learned Judicial Magistrate, Tenkasi and set aside the same as illegal and set a liberty to the petitioner's husband to release from jail.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.A.Robinson

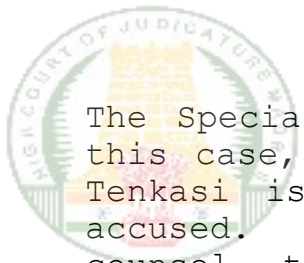
Govt. Advocate (Crl. Side) for R1

O R D E R

The petitioner's husband is figuring as A5 in Crime No.19 of 2020 registered on the file of the Inspector of Police, Tenkasi Police Station for the offences under Sections 16, 18 and 20 of Unlawful Activities (Prevention) Act, 1967.

2.The petitioner's grievance is that even though the Deputy Superintendent of Police is the investigating officer, remand was sought and obtained by the Sub Inspector of Police, Tenkasi Police Station. The petitioner's counsel would further contend that it is only the Special Court that can even extend the remand of the accused. The petitioner's counsel would draw my attention to the fact that Unlawful Activities (Prevention) Act, 1967 is figuring in the schedule to the National Investigation Agency Act.

3.I am not persuaded by the aforesaid submission of the petitioner's counsel. As rightly pointed out by the learned Government Advocate (Crl. Side), even though the Unlawful Activities (Prevention) Act is figuring in the schedule to the National Investigation Agency Act, still in the case on hand, the investigation has not been handed over to the National Investigating Agency. The investigation is still done only by the State police.



The Special Court assuming the power to remand does not arise in this case, I am of the view that the learned Judicial Magistrate, Tenkasi is very much having the power to extend remand of the accused. However, as rightly pointed out by the petitioner's counsel, the Sub Inspector of Police ought not to have given an application for extension of remand. No doubt an irregularity has happened in this case. But it is not grave a illegality. In any event, it stands cured by the subsequent extension of remand made at the instance of the Deputy Superintendent of Police on 10.02.2020. Therefore, I am of the view that the impugned remand extension cannot be set aside. However, the petitioner is justified in her grievance that the bail petition filed by her husband is not being taken up. I must clarify that the Sessions Court will have power to entertain the bail application. The learned Principal Sessions Judge, Tirunelveli is directed to number the bail petition that is said to have been filed by A5 in this case and dispose it of on merits and in accordance with law.

4.With this direction, this criminal original petition is disposed of.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

1.The Principal District and Sessions Court,
Tirunelveli.

2.The Judicial Magistrate,
Tenkasi.

3.The Inspector of Police,
Tenkasi Police Station,
Tenkasi.

+1 CC to M/s.S.M.A.JINNAH, Advocate (SR-12419[F] dated
19/03/2020)

Crl.O.P (MD)No.4247 of 2020
17.03.2020

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