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CRL OP (MD) . Nos.7816, 7649 and 7914 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 02/09/2020
Pronounced on : 11/09/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP (MD) . Nos.7816, 7649 and 7914 of 2020

1.K.Gopinath
2. Ramesh

... Petitioners/Accused-2 & 3
in Crl.O.P(MD) No.7816 of 2020

Ramesh

... Petitioner/Accused No.4
in Crl.O.P(MD) No.7649 of 2020

Jeyamuniraj

... Petitioner/Accused No.5
in Crl.O.P(MD) No.7914 of 2020

Vs

The State represented by
The Inspector of Police,
NIB-CID Police Station,
Ramanathapuram.
Crime No. 58 of 2019.

... Respondent/Complainant
in all petitions

For Petitioners : Mr.M.Jagadeesh Pandian, Advocate
In Crl.O.P(MD) No. 7816 of 2020

For Petitioner : Mr.M.Kannan, Advocate
In Crl.O.P(MD) No. 7649 of 2020

For Petitioner : Mr.M.Velmurugan, Advocate
In Crl.O.P(MD) No. 7914 of 2020

For Respondent : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor
(in all petitions)

PETITIONS FOR BAIL Under Sec.439 of Cr.P.C.

COMMON PRAYER :-

For Bail in Cr.No. 58 of 2019 on the file of the respondent
police.

<https://hcservices.ecourts.gov.in/hcservices/>



COMMON ORDER : The Court made the following order :-

The petition in CrI.O.P(MD) No. 7816 of 2020 has been filed by A2 and A3 and the petition in CrI.O.P(MD) No.7649 of 2020 has been filed by A4 and the petition in CrI.O.P(MD) No.7914 of 2020 has been filed by A5, seeking bail.

2. The petitioners/accused herein were arrested on 25.12.2019 for the alleged offences under Sections 8(c)r/w. 20(b)(ii)(C), 25,27 (A) and 29(c) of NDPS Act.

3. Totally there are 10 accused in this case, the petitioners are arrayed as A2 to 5 and the petitioners were arrested on 25.12.2019 and remanded to judicial custody on 26.12.2019. Contending that the period of 180 days has expired from the date of their remand and the respondent police failed to complete the investigation and file the final report before the concerned Court, hence the petitioners filed the present bail petitions seeking "Default bail".

4. The case of the prosecution is that, on 25.12.2019, on secret information received by the respondent police that A1 and A9, their family members and friends were transporting Ganja to Srilanka from Dhanushkodi, Othapatti Seashore, the respondent police went there and waiting near Othapatti beach in the Dhanuskodi road. At about 07.00 p.m., when the informant identified the vehicle belonging to the petitioners, the respondent surrounded them and found A1 to A6 inside the car with two gunny bags containing Ganja in the car. After informing them about their right to be searched by a Judicial Magistrate or by a Gazetted Officer, they voluntarily accepted for the search by the respondent police. Thereafter, on search, the respondent police found 20 kg and 10kg of Ganja in each bags and the same was seized under a mahazhar. Thereafter, on the confession given by A6, they searched a boat, wherein, they found another bag of 20 kg of Ganja. On further confession of A1 and A6, the respondent police seized 20 kg of Ganja in A7 house and another 10 kg of Ganja from A8 near the bus stand. In total, the respondent police seized 80kg of Ganja from all the accused. After following the mandatory procedure, the petitioners were arrested and remanded to judicial custody on 26.12.2019.

5. After completing investigation, the respondent police filed the final report on 22.06.2020 before the Special Court for NDPS Act cases, Pudukottai. Now, the petitioners claiming that the investigation was not completed and the final report was not filed within a period of 180 days as contemplated under Section 36 A(4) of the Narcotic Drugs and Psychotropic Substances Act, 1985[hereinafter referred to as 'the NDPS Act'], and the alleged final report filed by the respondent is not a complete one, hence, an indefeasible



right accrues with the petitioner to be release them on bail, the present bail petitions have been filed.

6. Mr.M.Velmurugan, the learned counsel the petitioner appearing in Crl.O.P(MD) No.7914 of 2020 would submit that, under Section 36A(4) of the Act, the respondent police should complete the investigation and file the final report within a period of 180 days. Even though the petitioner was arrested on 25.12.2019 and remanded to judicial custody on 26.12.2019, the final report said to have been filed only on 22.06.2020. The petitioner has filed the bail application on 21.06.2020 itself, however the Court below returned the bail applications of the petitioners stating that the final report has been filed within a period of 180 days, hence, the petition is not maintainable and the petitioners are not entitled to default bail.

7. The learned counsel further submitted that even assuming that the final report was filed within a period of 180 days, the petitioner came to understand that the final report filed by the respondent police is not a complete one and hence, the Court below returned the final report on 26.06.2020. Thereafter, the respondent police re-presented the same only on 13.07.2020. In the meantime, the petitioner again filed a bail application on 02.07.2020 on the ground that the final report filed by the respondent police is an incomplete one and the same was not accepted by the court below and returned. On the date of filing the bail application, no final report was pending on the file of the Special Court. Hence the petitioner is entitled for statutory bail. However, without considering the same, the Court below rejected the bail application.

8. The learned counsel for the petitioner relied upon the Judgment of the Honourable Supreme Court of India, in the case of **Achpal Alias Ramswaroop and another-vs- State of Rajasthan** reported in **2019(18) SCC 599** and contended that as no final report is available in the Court on the date of filing the bail petition, the indefeasible right accrued to petitioner cannot be frustrated. He also relied upon another judgment of the Honourable Supreme Court in the case of **Uday Mohanla Acharya -vs- State of Maharashtra** reported in **2001(5) SCC 453** to buttress his argument.

9. Mr. Jagadish Pandian learned counsel appearing for one of the accused would submit that the final report filed on 22.06.2020 is not the complete final report. Hence, it does not satisfy the requirement under Section 172(5) of Cr.P.C. r/w. Rule 25(7) of Criminal Rules of Practice. The respondent police failed to file the entire documents and statement of the witnesses, in order to frustrate the right of the petitioner, the respondent police hurriedly filed few papers and it is not fulfilling the requirements of the final report. Hence, the petitioner is entitled for statutory bail.



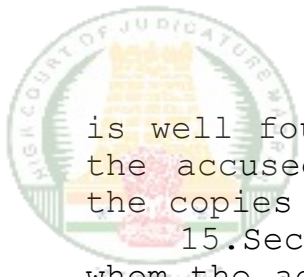
10. Mr. Kannan learned counsel appearing for one of the petitioners would submit that, on the date of last extension of remand after the expiry of 180 days no final report is available in the Special Court, and , the Special Court had no opportunity to apply its mind to consider whether the accused has committed any offence and the remand of the accused is necessary. In the absence of any final report pending on the file of the Special Court, the Special Court ought not to have extended the remand and ought to have released the petitioners on bail.

11. The learned Additional Public Prosecutor opposing the bail petitions would submit that all the accused were arrested on 25.12.2019 and remanded to judicial custody on 26.12.2019. The date of remand should be excluded for the purpose of calculating 180 days and the last date of completing the investigation and filing the final report falls on 23.06.2020, however the respondent police completed the investigation and filed the final report on 22.06.2020 on 179th day itself. Since the final report has been filed within a period of 180 days, the petitioners cannot be released on bail.

12. He further submitted that on 22.06.2020, the respondent police has filed all the relevant statements and documents required as per Section 173 (5) of Cr.P.C r/w. Rule 25(7) of Criminal Rules of Practice with the final report. Thereafter, on 26.06.2020, the Special Court has returned the final report for rectifying certain minor defects, the same was carried out and re-presented immediately. He further submitted, that even assuming a complete final report is not filed, it will not create a right on the petitioner to get statutory bail, as the prosecution is entitled to file additional documents subsequently. The petitioners were in possession of 80 kg of Ganja which is a commercial quantity. The petitioners are not fulfilling the requirements of Section 37 of the NDPS Act and on merits also the petitioners are not entitled for bail. In support of his contention, the learned Additional Public Prosecutor relied upon number of judgments which will be referred to the latter part of this order.

13. Considered the rival submissions and perused the materials available on record.

14. The present applications are filed mainly claiming statutory bail under Section 167(2) Cr.P.C. r/w. 36 A(4) of the NDPS Act. Article 22(2) of the Constitution of the India, mandates that, any person arrested and detained under custody by the police shall be produced within 24 hours of such arrest, after excluding time taken from the place of arrest to the Court and no person shall be kept in detention beyond that period without the permission of the Magistrate. Section 57 of Cr.P.C also provides the same. However Section 167 of Cr.P.C provides that, when the investigation cannot be completed within 24 hours as contemplated under Section 57, and there are grounds for believing that the accusation or information



is well founded, the investigating officer shall forthwith forward the accused persons to the nearest Judicial Magistrate along with the copies of entries made in the diary.

15. Section 167(2) of Cr.P.C provides that the Magistrate to whom the accused person is forwarded may authorise his detention in custody for a maximum period of 15 days in whole, and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to the Magistrate having such jurisdiction.

16. The Proviso to Sub Section(2) of 167 Cr.P.C. fixes the outer limit for completion of investigation in a case and the same should not exceed the prescribed time, namely 90 days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years, sixty days where the investigation relates to any other offence. On expiry of such period of ninety days or sixty days, as the case may be, the accused persons shall be released on bail provided they are prepared to furnish bail.

17. Section 167 of the Cr.P.C reads as follows:

"167. Procedure when investigation cannot be completed in twenty four hours.

1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty four hours fixed by section 57 and there are grounds for believing that the accusation or information is well founded, the officer-in-charge of the police station or the police officer making the investigation, if he is not below the rank of the sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.

2) The Magistrate to whom an accused persons is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding 15 days in the whole and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction;

Provided that-

(a) the Magistrate may authorise the detention of the accused person otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the



accused person in custody under the paragraph for a total period exceeding -

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years.

(ii) Sixty where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused persons shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be released under the provisions of Chapter XXXIII for the purpose of that Chapter".

18. Section 36 A(4) of the NDPS Act, makes Section 167 Cr.P.C applicable to the arrest and remand made under the NDPS Act. However, the period of 90 days contemplated in provision to sub Section 167 of Cr.P.C shall be construed as of 180 days. Proviso to Section 36(A), provides that, if the investigating authorities not able to complete the investigation within 180 days, the Special Court may extend the period upto one year on the report filed by the Public Prosecutor indicating the progress of the investigation and specify reason for detaining all the accused beyond the said period of 180 days.

19. Section 36 A (4) of the N.D.P.S reads as follows:

" In respect of persons accused of an offence punishable under Section 19 or section 24 or section 27 A or for offences involving commercial quantity the references in sub -section(2) of Section 167 of the code of Criminal Procedure , 1973(2 of 1974) thereof to 'ninety days' where they occur, shall be construed as reference to ' one hundred and eighty days

Provided that it is not possible to complete the investigation within the said period of one hundred and eighty days, the Special Court may extend the said period upto one year and on the report of the Public Prosecutor indicating the progress of the investigation and the specific reasons for the detention of the accused beyond the said period of one hundred and eighty days".

20. If the investigating agency has not completed the investigation within prescribed time, then a right accrues to the accused to be released them on bail, if he is prepared to furnish bail. The object of Section 167 of Cr.P.C and Section 36 A(4) of the NDPS Act is that, the accused persons should not be permitted in custody pending investigation unnecessarily longer period, and an indefeasible right accrues to the accused persons to get bail, on account of failure of the investigating agency in completing investigation within the maximum period prescribed in the above



said provision. However such right is enforceable only prior to the filing of charge sheet and it does not survive and the accused cannot enforce that right after filing the final report by the investigating agency.

21. The Honourable Supreme Court in the case of **Uday Mohanlal Acharya -vs- State of Maharashtra** reported in **2001 (5) SCC 453**, explains the scope of Section 167 of Cr.P.C and held as follows:

" This provision to Section 167 is in the fact supplementary to section 57, in consonance with the principle that the accused is entitled to demand that justice is not delayed. The object of requiring the accused to be produced before a Magistrate is to enable the Magistrate to see that remand is necessary and also to enable the accused to make a representation which he may wish to make. The power under Section 167 is given to detain a person in custody while the police goes on with the investigation and before the Magistrate starts the enquiry. Section 167, therefore is the provision which authorises the Magistrate permitting detention of the accused in custody and prescribing the maximum period for which detention could be ordered. Having prescribed the maximum period as stated above, what would be the consequences thereafter has been indicated in the proviso to Sub Section (2) of Section 167. The proviso is unambiguous and clear and stipulates that the accused shall be released on bail, if he is prepared to and does furnish the bail which has been termed by judicial pronouncement to be ' compulsive bail ' and such bail would be deemed to be a bail under Chapter 33".

22. The Constitution Bench of the Honourable Supreme Court of India in the case of **Sanjay Dath -vs- State through CBI** reported in **194(5) SCC 410** in para 48, it has held as follows:

" The indefeasible right accruing to the accused in such a situation is enforceable only prior to the filing of the challan and it does not survive or remain enforceable on the challan being filed, if already not availed of. Once the challan has been filed, the question of grant of bail has to be considered and decided only with reference to the merits of the case under the provisions relating to grant of bail to an accused after the filing of the challan. The custody of the accused after the challan has been filed is not governed by Section 167 but different provisions of the Code of Criminal Procedure. If that right had accrued to the accused but it remained unenforced till the filing of the challan, then there is no question of its enforcement thereafter since it is extinguished the moment challan is filed because Section 167 Cr. P.C. ceases to apply. The



Division Bench also indicated that if there be such an application of the accused for release on bail and also a prayer for extension of time to complete the investigation according to the proviso in [section 20\(4\) \(bb\)](#), both of them should be considered together. It is obvious that no bail can be given of the even in such a case unless the prayer for extension of the period is rejected. In short, the grant of bail in such a situation is also subject to refusal of the prayer for extension of time, if such a prayer is made. If the accused applies for bail under this provisions on expiry of the period of 180 days or the extended period, as the case may be, then he has to be released on bail forthwith. The accused, so released on bail may be arrested and committed to custody according to the provisions of the Code of Criminal Procedure. It is settled by Constitution Bench decisions that a petition seeking the writ of habeas corpus on the ground of absence of a valid order of remand or detention of the accused, has to be dismissed, if on the date of return of the rule, the custody or detention is on the basis of a valid order. (See [Naranjan Singh Nathawan v. The State of Punjab](#), [1952] SCR 395; [Ram Narayan Singh v. The State of Delhi and Others](#), [1953] SCR 652 and [A.K. Gopalan v. The Government of India](#), [1966] 2 SCR 427).

23. In the instance case, admittedly, the petitioners were arrested on 25.12.2019 and remanded to judicial custody on 26.12.2019 and the final report has been filed by the respondent police on 22.06.2020. Since a doubt has been raised by the learned counsel for the petitioners regarding the date of filing final report, this Court called for the records from the Special Court and verified that the final report was filed on 22.06.2020.

24. It is settled law that for calculating the period of 180 days, the date of remand of the accused shall be excluded and the date of filing final report shall be included, as per the Judgment of the Honourable Supreme Court in the case of **Chaganti Satyanarayana and others -vs- State of Andhra Pradesh** reported in 1986 (3) SCC 141, where it is held as follows:

"25. Thus is any view of the matter i.e., construing proviso (c) either in conjunction with sub section (2) of Section 167 or as an independent paragraph, we find that the total period of 90 days under clause (I) and the total period of 60 days under clause (ii) has to be calculated only from the date of remand and not from the date of arrest"

25. After excluding the date of remand, viz., 26.12.2020, 180 days falls on 23.06.2020. However, the final report has been filed on 22.06.2020 on 179th day. Hence, the petitioners are not entitled



for statutory bail as the final report has been filed within the time as contemplated under Section 36 A(4) of the NDPS Act and the petitioners cannot claim default bail.

26. The next limb of argument of the learned counsel for the petitioners is that, the final report filed on 22.06.2020 is not a complete final report, all the statements of the witnesses and documents are not filed before the court along with the final report. In the above circumstances, the Court has returned the final report on 24.06.2020, as the complete documents were not filed along with the final report, it could not be construed as final report in the eye of law. Hence, they are entitled for statutory bail.

27. Section 173 Cr.P.C deals with the report of the police officer on completion of investigation. Under Section 173(2) of Cr.P.C. after completion of investigation, the officer in-charge of the police station shall forward the report to the Magistrate empower to take cognizance of the offence in the form prescribed by the State Government, containing various particulars. Section 173(5) of Cr.P.C stipulates that, when the police report is in respect of a case to which Section 170 Cr.P.C. applies, the police officer shall forward the report to the Magistrate along with all the documents, or relevant extracts thereof on which the prosecution proposes to rely upon, apart from those materials already sent to the Magistrate during the investigation and the statements recorded under Section 161 Cr.P.C of all the persons whom the prosecution proposes to examine as its witnesses.

28. Section 173, 173 (2) and 173(5) of the Cr.P.C reads as follows:

" 173. Report of police officer on completion of investigation

(1) Every investigation under Chapter shall be completed without unnecessary delay.

(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether he has been released on his bond and, if so, whether with or without sureties;
- (g) whether he has been forwarded in custody under section



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(ii) The officer shall also communicate, in such manner as may be prescribed by the State Government, the action taken by him, to the person, if any whom the information relating to the commission of the offence was first given"

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(5) When such report is in respect of a case to which section 170 applies, the police officer shall forward to the Magistrate along with the report—

(a) all documents or relevant extracts thereof on which the prosecution proposes to rely other than those already sent to the Magistrate during investigation;

(b) the statements recorded under section 161 of all the persons whom the prosecution proposes to examine as its witnesses"

29. From the cursory reading of the above provisions it is clear that the statutory requirements of a final report contemplated under Section 173(2)Cr.P.C. will be satisfied if the materials prescribed therein are included in the final report, apart from the documents and statements of the witnesses as contemplated under Section 173 (5) of the Cr.P.C.

30. The Honourable Supreme Court in the case of **Satya Narain Musadi -vs- State of Bihar** reported in **1980 (3) SCC 152** has held as follows:

"Section 173(2) thus provides what the report in the prescribed form should contain. In this case the report did contain the name of the accused and the nature of the offence. In fact Section 170 provides that if upon an investigation under Chapter XII it appears to the officer in charge of the police station that there is sufficient evidence or reasonable ground to proceed against the accused such officer shall forward the accused under custody to a Magistrate empowered to take cognizance of the offence upon a police report, etc. If the accused is on bail that fact will be notified in the final report submitted under Section 173(2) would be complied with if the various details therein prescribed are included in the report. This report is an intimation to the Magistrate that upon investigation into a cognizable offence the investigating officer has been able to procure sufficient evidence for the Court to inquire into the offence and the necessary information is being sent to the Court. In fact, the report under Section 173(2) purports to be an opinion of the investigating officer that as far as he is concerned he has been able to procure sufficient evidence for the trial of the accused by the Court and when he



states in the report not only the names of the accused, but names of the witnesses, the nature of the offence and a request that the case be tried, there is compliance with [Section 173\(2\)](#). The report as envisaged by [Section 173\(2\)](#) has to be accompanied as required by sub-Section (5) by all the documents and statements of the witnesses therein mentioned. One cannot divorce the details which the report must contain as required by sub-Section (2) from its accompaniments which are required to be submitted under sub-section 5. The whole of it is submitted as a report to the Court. But even if a narrow construction is adopted that the police report can only be what is prescribed in [Section 173\(2\)](#) there would be sufficient compliance if what is required to be mentioned by the statute has been set down in the report. To say that all the details of the offence must be set out in the report under [Section 173\(2\)](#) submitted by the police officer would be expecting him to do something more than what the Parliament has expected him to set out therein. If the report with sufficient particularity and clarity specifies the contravention of the law which is the alleged offence, it would be sufficient compliance with [Section 11](#). The details which would be necessary to be proved to bring home the guilt to the accused would emerge at a later stage, when after notice to the accused a charge is framed against him and further in the course of the trial. They would all be matters of evidence and [Section 11](#) does not require the report to be or to contain the evidence in support of the charge, its function being merely to afford a basis for enabling the Magistrate to take cognizance of the case (see [Bhagwati Saran v. State of Uttar Pradesh](#), 1961 (3) SCR 563).

31. The above judgment followed by the Honourable Supreme Court of India, in the case of **Tara Singh Vs- State of** in **1951 SCR 729**, wherein it is held as follows:

"19. Stand of the learned counsel for the appellants was that the mere filing of the defective challan was really on no consequence. This aspect has been dealt with in Tara Singh and Satya Narain cases in detail. Since all the relevant documents were before the Court before the expiry of 90 days period, grievance of the appellant is sans merit".

32. That apart, even assuming the police has not complied with the requirement under Section 173 (5) of the Cr.P.C and that only some of the documents and statements have been filed along with the final report, it will not preclude the investigating agency from filing the remaining documents subsequently. It is open to the



investigating agency to produce the additional documents which were collected prior to or subsequent to the investigation with the permission of the Court. The word should used in sub section (5) of Section 178 of Cr.P.C is not mandatory but only directory as held by the Hon'ble Supreme Court. In the case of **Central Bureau of Investigation -vs- R.S. Pai and another** reported in 2002 (5) SCC, 82 which reads as follows:

"7. From the aforesaid sub-sections, it is apparent that normally, the Investigating Officer is required to produce all the relevant documents at the time of submitting the charge-sheet. At the same time, as there is no specific prohibition, it cannot be held that the additional documents cannot be produced subsequently. If some mistake is committed in not producing the relevant documents at the time of submitting the report or charge-sheet, it is always open to the Investigating Officer to produce the same with the permission of the Court. In our view, considering the preliminary stage of prosecution and the context in which Police Officer is required to forward to the Magistrate all the documents or the relevant extracts thereof on which prosecution proposes to rely, the word 'shall' used in sub-section (5) cannot be interpreted as mandatory, but as directory. Normally, the documents gathered during the investigation upon which the prosecution wants to rely are required to be forwarded to the Magistrate, but if there is some omission, it would not mean that the remaining documents cannot be produced subsequently. Analogous provision under [Section 173\(4\)](#) of the Code of Criminal Procedure, 1898 was considered by this Court in [Narayan Rao v. The State of Andhra Pradesh](#) [(1958) SCR 283 at 293] and it was held that the word 'shall' occurring in sub-section 4 of Section 173 and sub-section 3 of Section 207A is not mandatory but only directory. Further, the scheme of sub-section (8) of [Section 173](#) also makes it abundantly clear that even after the charge-sheet is submitted, further investigation, if called for, is not precluded. If further investigation is not precluded then there is no question of not permitting the prosecution to produce additional documents which were gathered prior to or subsequent to investigation. In such cases, there can not be any prejudice to the accused. Hence, the impugned order passed by the Special Court cannot be sustained. In the said decision it is held that if some mistake is committed in not producing the relevant documents at the time of submitting the



report, it is always open to the investigating officer to produce the same with the permission of the Court. The Bench proceeded further to observe that if the further investigation is not precluded, then there is no question of not permitting the prosecution to produce the additional document which were gathered prior to or subsequent to the investigation and the word 'Shall' used in sub-section 5 cannot be interpreted as mandatory, but as directory. Therefore it is contended that the High Court is justified in refusing to grant default bail in favour of the appellant".

The above judgments has been followed in **Narendra Kumar Amin -vs- Central Bureau of Investigation and others** reported in **2015 (3) Supreme Court Cases 417**.

33. In the instant case, on a perusal of the final report filed by the respondent police it is seen that all the documents and statements relied upon by the respondent police have been filed in the final report on 22.06.2020. However, the Court below returned the final report on 24.06.2020 for the following reasons:

- "1.எதிரிகளின் விலாசம் கதவு எண். சரியாக குறிப்பிட்டு தாக்கல் செய்யவும்.
 2. முதல் தகவல் அறிக்கை சோதனை சம்மதக்கடிதம் மற்றும் அத்தாட்சி எதிரிக்கு நகல் கொடுக்க வேண்டும் என்பதால் அனைத்திலும் ஜெராக்ஸ் எடுக்க வேண்டும்
 - 3.எதிரிகள் 1,2,3 Judicial custody என்றும் குறிப்பிட்டுள்ளீர்கள் மற்ற 4,5,6,7,8 எதிரிகள் என்ன என்பதை விளக்கவும்
 4. இறுதி அறிக்கையில் தேதி 13.06.20 என்றும் உள்ளது மற்றதில் 19.06.20 என்றும் திருத்தம் செய்யப்பட்டுள்ளது.
- எனவே திருப்பப்படுகிறது".

34. From the above it could be seen that the final report was returned only to rectify some minor mistakes committed in the final report, and all required documents as contemplated under Section 173 (2) and Section 173(5) r/w.25(7) of the Criminal Rules of Practice have been filed.

35. Hence, the contention of the learned counsel for the petitioners cannot be countenanced.

36. So far as the judgment relied by the learned counsel for the petitioners reported in **2019(14) SCC 599** is concerned, it is a case where, originally the crime was investigated by a particular agency. When the application was filed before the Special Court seeking for fair and impartial investigation, the High Court has directed that the investigation should be conducted by a Gazetted Officer not below the rank of the Additional Superintendent of Police, however, without complying with the order passed by the High Court, final report has been filed by the Original Investigating Officer. Hence, the learned Magistrate has returned the final report stating that it is not in compliance of the order passed by the High Court. Under



such circumstances, the Honourable Supreme Court has held that there is no final report pending on the file of the learned Magistrate on the date of expiry of 90 days, hence this judgment is not applicable to the facts of the case. The other judgments relied on by the learned counsel for the petitioners are not applicable to the facts of the case as the entire documents and statements of the witnesses have been filed along with the final report before expiry of 180 days.

37. Sofar as merits of the case are concerned, no argument has been advanced on either side on merits, hence, this Court is not inclined to go into the merits of the case in the present bail applications.

38. In the result, all the petitions stand dismissed.

sd/-
11/09/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE OFFICER INCHARGE,
DISTRICT PRISON, RAMANATHAPURAM.
- 2 THE INSPECTOR OF POLICE,
NIB-CID POLICE STATION, RAMANATHAPURAM.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) . Nos.7816, 7649 and 7914 of 2020
Date :11/09/2020

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AE/JC/SAR-I (15.09.2020) 14P 4C

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