

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.M.P.No.4126 of 2021
and Crl.R.C.SR.No.5862 of 2021

S.Prem

... Petitioner

Vs.

State Rep.by
The Inspector of Police,
Vazhapady Police Station,
Salem District.

.... Respondent

Prayer in Crl.M.P.No.4126 of 2021

Civil Miscellaneous Petition filed under Section 482 of Cr.P.C to condone the delay of 752 days in filing this Criminal Revision Case against the order passed in Crl.M.P.No.178 of 2018 in J.C.No.32 of 2018 dated 22.10.2018 dismissing the petition filed under Section 45 and 112 of Indian Evidence Act by the learned Principal Magistrate, Juvenile Justice Board, Salem.

Prayer in Crl.R.C.Sr.No.5862 of 2021 :

Civil Revision Case filed under Section 397 and 401 Cr.P.C to set aside the order passed in Crl.M.P.No.178 of 2018 in J.C.No.32 of 2018 dated 22.10.2018 dismissing the petition filed under Section 45 and 112 of Indian Evidence Act by the learned Principal Magistrate, Juvenile Justice Board, Salem.

For Petitioner : Mr.P.Wellington

For Respondent : Ms.T.P.Savitha

Government Advocate (Crl.Side)

O R D E R

Crl.M.P.No.4126 of 2021 seeking to condone the delay of 752 days in filing the Criminal Revision Case has been listed today, under the caption for 'to condone the delay for preferring the case'. After hearing both sides and perusing the records, this Court is inclined to take up the main Criminal Revision Case at the S.R stage itself for disposal.

2. CrI.R.C.Sr.No.5862 of 2021 has been filed against the order dated 22.10.2018 passed in CrI.M.P.No.178 of 2018 in J.C.No.32 of 2018 by the learned Principal Magistrate, Juvenile Justice Board, Salem.

3.The learned counsel for the petitioner would submit that a case has been registered against the petitioner for the offence under Section 451 IPC r/w 5(1) and 6 of POCSO Act, 2012. During the trial, the blood samples were obtained from the petitioner and three other accused, who were alleged to have been involved in the birth of the child of the victim Minor Pavithra/ de facto complainant and the same were sent for D.N.A test through a constable. Hence, there may be possibility of interchanging the blood samples while labelling as well as testing and thus, the petitioner filed a petition in CrI.M.P.No.178 of 2018 to reconduct the D.N.A test. After hearing, the trial Court dismissed the petition. Challenging the said order, the petitioner is before this Court by way of filing the above Criminal Revision Case.

4.It is seen from the records that originally blood samples were taken from the petitioner and three other accused and same were sent for D.N.A test. On receipt of the report, to protract the case the petitioner filed the petition in CrI.M.P.No.178 of 2018 to conduct fresh D.N.A.test, since there is possibility of interchanging the blood samples while labelling as well as testing. Hence, the trial Court dismissed the petition.

5. In the light of the above facts, this Court is of the opinion that the blood samples were separately collected from the petitioner and three other accused and sent it for D.N.A test. Hence, there is no possibility of interchanging the samples, since every sample has given a separate identification marks. Therefore, the reasons stated by the learned counsel for the petitioner cannot be accepted. The trial Court has rightly dismissed the petition and there is no merit in the Criminal Revision Case and the same is liable to be dismissed. Accordingly, the Criminal Revision Case stands dismissed at the S.R.stage itself. Consequently, connected miscellaneous petition is also dismissed. The trial Court is directed to proceed with the matter on a day to day basis in accordance with law and dispose of the matter within a period of four months from the date of receipt of a copy of this order.

ms

s/d-
Assistant Registrar(CS VI)

True Copy
Sub-Assistant Registrar

To

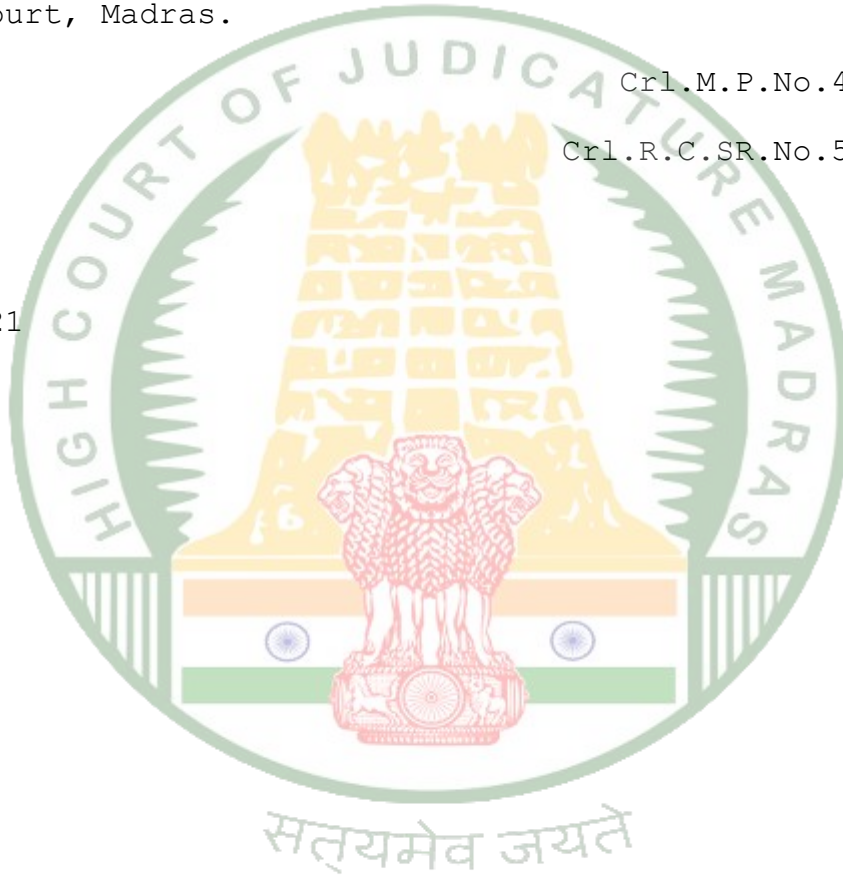
1.The Principal Magistrate,
Juvenile Justice Board,
Salem.

2.The Inspector of Police,
Vazhapady Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

Crl.M.P.No.4126 of 2021
and
Crl.R.C.SR.No.5862 of 2021

CP(CO)
EU 8.6.2021



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