

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11092 of 2021 and
Crl.M.P.No.6528 of 2021

Logu @ Loganathan

... Petitioner

Versus

The State, represented by,
Sub Inspector of Police,
Sankarapuram Police Station,
Kallakurichi District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the trial Court to expedite the trial in Cr.P.No.88 of 2021 on the file of Addl. District and Sessions Judge, (Fast Track Court) Villupuram to secure the ends of justice.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.A.Damodaran,
Government Advocate (Crl. Side)

ORDER

The Divisional Administrative Magistrate-cum-Sub Collector, Kallakurichi, by order, dated 16.03.2021 in Na.Ka.A3/1945/2020 passed an order under Section 122(1)(b) of Cr.P.C., directing the petitioner to undergo sentence up to 28.09.2021, against which, the petitioner preferred C.R.P.No.88 of 2021 and also filed a petition for suspension of sentence in C.R.M.P.No.2741 of 2021 in C.R.P.No.88 of 2021 before the learned Additional District Judge (Fast Track Court), Villupuram. Since the learned Additional District Judge (Fast Track Court), Villupuram had taken time to dispose the suspension of sentence petition, the petitioner filed a petition in C.M.P.No.1241 of 2021 in C.R.M.P.No.2741 of 2021 in C.R.P.No.88 of 2021 seeking for early disposal of the suspension of sentence petition. The advance hearing petition in C.M.P.No.1241 of 2021 in C.R.M.P.No.2741 of 2021 in C.R.P.No.88 of 2021 came to be dismissed by order dated 30.04.2021. Now, the petitioner has filed the above Criminal Original Petition seeking to direct the learned Additional District Judge (Fast Track Court), Villupuram to expedite the trial in C.R.P.No.88 of 2021 and to dispose the suspension of the sentence petition.

2.The learned counsel for the petitioner submitted that the petitioner's wife is to undergo heart surgery and hence, it is necessary to expedite the trial in C.R.P.No.88 of 2021. The learned counsel further submitted that the order passed by the Divisional Administrative Magistrate-cum-Sub Collector, Kallakurichi in Na.Ka.A3/1945/2020 is without jurisdiction. Further, this Court in the case of "Devi Versus The Executive Magistrate-cum-Deputy Commissioner of Police, St.Thomas, Mount Division in CrI.R.C.No.78 of 2020, dated 25.09.2020" held the case in favour of the petitioner on this ground. Despite the same, the learned Additional District Judge (Fast Track Court), Villupuram failed to entertain the suspension of sentence petition without delay. The reason given by the learned Additional District Judge (Fast Track Court), Villupuram in order, dated 30.04.2021 in C.M.P.No.1241 of 2021 in C.R.M.P.No.2741 of 2021 in C.R.P.No.88 of 2021 is that the learned Public Prosecutor seeks time to get instruction and to file his counter and the petitioner has not filed any documents to show that his wife is to undergo heart surgery. Hence, he prayed for expedite trial in C.R.P.No.88 of 2021.

3.The learned Government Advocate (Crl. Side) appearing on behalf of the respondent Police submitted that the petitioner is a habitual offender, against whom the proceedings under Section 110 Cr.P.C., has been initiated. Since the petitioner violated the conditions imposed in the proceedings under Section 110 Cr.P.C., the Divisional Administrative Magistrate-cum-Sub Collector, Kallakurichi in Na.Ka.A3/1945/2020 had passed order under Section 122(1)(b) of Cr.P.C. Thus, the order is legally sustainable. The revision filed by the petitioner before the lower Court is to be admitted and thereafter only, the petition for suspension of sentence could be entertained. Therefore, the points raised by the petitioner herein are to be raised before the learned Additional District Judge (Fast Track Court), Villupuram in C.R.P.No.88 of 2021.

4.This Court on considering the rival submissions and perusal of the materials, it is seen that as regards the proceedings under Section 122(1)(b) of Cr.P.C., the petitioner is in prison from 16.03.2021. This Court in the case of "Devi Versus The Executive Magistrate-cum-Deputy Commissioner of Police, St.Thomas, Mount Division in CrI.R.C.No.78 of 2020, dated 25.09.2020" had entertained the revision and suspended the sentence.

5.It is also seen that the petitioner had already undergone substantial portion of the sentence and it is only three more months to complete the sentence. The petition filed by the petitioner for suspension of sentence cannot be kept pending for a long time without passing orders. Further, fundamental right of a person is involved.

6.In view of above, the learned Additional District Judge (Fast Track Court), Villupuram is directed to dispose the suspension of sentence petition filed in C.R.M.P.No.2741 of 2021 in C.R.P.No.88 of 2021 on or before 06.07.2021 and thereafter, the C.R.P.No.88 of 2021 without delay after commencement of normal functioning of the Courts.

7.With the above directions, this Criminal Original Petition is disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Additional District and Sessions Court
(Fast Track Court),
Villupuram.
- 2.The Sub Inspector of Police,
Sankarapuram Police Station,
Kallakurichi District.
- 3.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.11092 of 2021

KV(CO)
GMY(30/06/2021)

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