

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.3.2021

Delivered on : 31.3.2021

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.M.P.No.19301 of 2019  
in  
Crl.O.P.No.18146 of 2010

A.Natarajan : Petitioner/Petitioner

vs.

The State rep. by  
Inspector of Police,  
CCIW CID, Vellore,  
Vellore District  
(Cr.No.6/2007)

: Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 482 of the Code of Criminal Procedure to recall the order passed by this court in Crl.O.P.No.18146 of 2010 dated 7.12.2018.

Prayer in Crl.O.P.No.18146 of 2010: Criminal Original Petition to quash the proceedings as against the petitioner in C.C.No.29/10 on the file of the Judicial Magistrate No.II, Vellore.

For Petitioner : Mr.S.Sairam for  
Mr.M.Selvam

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

ORDER

The present Criminal Miscellaneous Petition has been filed to recall the order passed by this court in Crl.O.P.No.18146 of 2010 dated 7.12.2018.

2. The petitioner is accused No.4 in C.C.No.29 of 2010 on the file of Judicial Magistrate II(FAC), Vellore. The petitioner filed the above Crl.O.P.No.18146 of 2010 for quashing the final report filed against him. The said Crl.O.P. was listed for hearing before this court on 7.2.2018 and there was no representation for the petitioner in the morning session and

therefore, it was passed over and taken up at 4:30 PM. The learned Government Advocate made his submission that some of the witnesses have been examined in C.C.29 of 2010 and based on that submission made on behalf of the State the said CrI.O.P. was dismissed with liberty to the petitioner to raise the grounds raised in that petition before the Trial Court.

3. Subsequent to the orders of this court, the petitioner has applied for a certified copy of the framing of charges in C.C.No.29 of 2010 on 18.6.2019. before the Trial Court and the same was returned with an endorsement that charges have not been framed yet as on 21.6.2019. By referring the same, the present petition has been filed to recall the earlier orders passed by this court dated 7.12.2018.

4. Based on the contrary submissions made on behalf of the petitioner and the respondent, this court called for a Report from the Judicial Magistrate concerned by order dated 26.2021.

5. The learned Judicial Magistrate II, Vellore has also filed his Report dated 9.3.2021 stating that the case in C.C.No.29 of 2010 has been taken cognizance by the court for the offence under sections 408, 467, 468, 471, 477A read with Section 120B(1) IPC as against this petitioner and three others. It is further stated therein that on 14.11.2017 the prosecution has produced witnesses LW1 to LW4 and the same were examined as PW1 to PW4 in that case and for all 11 cases pending before the Trial Court. It is further contended therein that 21.11.2017, the learner counsel appearing for Accused No.4 reported to the Trial Court that charges have not been framed in C.C. No.29 of 2010 and therefore, the court recorded as under:-

"On perusal of records, it is seen that this court due to oversight did not explain the charge to the accused, though it was kept ready. This case was in the stage NBW & production of order copy. The counsels, who also cross examined the witness did not remained. Further, this case is a batch case. Due to oversight charge was not explained. It neither intentional nor wanton. Hence for appearance of A1 to A4 for explaining the charge adjourned to 23.11.2017. Further the accused shall bring to the notice of the court if any prejudice caused, which will be rectified by court by further orders in the interest of justice adjourned to 23.11.2017."

6. The Trial Court has also issued Non Bailable Warrant of arrest against this petitioner/A4 on 7.12.2017. On 26.12.2017 a memo was filed on behalf the petitioner/A4 that vide order in CrI.M.P.No.16389 of 2017 in CrI.O.P.No.29032 of 2017, his

personal appearance has been dispensed with by this High Court, but, he has not produced the order copy. Based on the representation of the petitioner/A4, the Trial Court posted the case on 25.7.2019, 29.8.2019, 5.9.2019, 12.9.2019, 17.9.2019, 19.9.2019, 26.9.2019, 3.10.2019, 10.10.2019, 17.10.2019 and finally 24.10.2019. Only on 24.10.2019, the Trial Court has received a copy of the order dated 7.12.2018 in Crl.O.P.No18146 of 2010 from this court and based on that order, the Trial Court proceeded with the case on 31.10.2019 for further hearing and in the meantime, the petitioner has obtained an endorsement as if charges have not been framed yet as on 21.6.2019 and filed this petition to recall on 4.10.2019.

7. This is a case of misappropriation said to have taken place in the Primary Agricultural Cooperative Bank during the period from 2000 to 2006. A case was registered on the file of the Inspector of Police CCIW, Vellore in the year 2007 in crime No.6 of 2007. The final report was also filed in the year 2010. The Inspector of Police CCIW, Vellore filed 11 final reports in Crime No.6 of 2007 and accordingly the Trial Court has taken cognizance in C.C.No.21 of 2010 to 31 of 2010.

8. For the occurrence said to have taken place in the year 2000, the case is dragged on for two decades. The petitioner/A4, taking advantage of the mistake in the print out issued in the Information Center attached to the High Court, has filed a memo as if the Crl.O.P. was allowed and this petitioner was discharged from the Criminal Case. Based on the memo filed by the petitioner, the Trial Court has also not acted upon the petitioner's case.

9. The fact remains that the witnesses LW1 to LW4 were examined by the Trial Court in all the 11 cases on 14.11.2017. However, when the Trial Court attempted to frame charges, the accused remained absent and therefore, Non Bailable Warrant of arrest was issued on 7.12.2017. Whiles, a Memo has been filed on behalf of the petitioner on 19.12.2017 as if the petitioner was discharged from the Criminal Case and based on the memo filed by the petitioner the case also stood adjourned periodically for want of orders from the High Court.

10. Therefore, the petitioner has not made out any case for recalling the orders passed by this court in Crl.O.P.No.18146 of 2010 dated 7.12.2018. Considering the nature of offence and the pendency of the case from the year 2010 for the offence committed in the year 2000, this court issues a direction to the Trial Court to conduct the trial on day to day basis and to conclude the same within a period of two months from the date of receipt of a copy of this order. Accordingly, the Criminal Miscellaneous Petition is dismissed.

11. Registry is directed to communicate a copy of this order to the learned Judicial Magistrate concerned forthwith. The Superintendent of Police, Vellore District is also directed to monitor the progress of the trial in this case. If any accused evades the trial or absconds, the Trial Court is directed to send a report to the Superintendent of Police, who, in turn, shall constitute a special team and see to that the trial is not protracted further.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Judicial Magistrate No.II (FAC),  
Vellore.
2. The Chief Judicial Magistrate, Vellore.
3. The Superintendent of Police,  
Vellore District.
4. The State rep. by  
Inspector of Police,  
CCIW CID, Vellore,  
Vellore District.
5. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.M.Selvam, Advocate, S.R.No.21687.

CrI.M.P.No.19301 of 2019  
in  
CrI.O.P.No.18146 of 2010

MG(CO)  
CSR 17.04.2021

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