



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Eighth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.878 of 2021

IN

CRL OP(MD) No.13495 of 2020

THE HIGH COURT OF JUDICATURE AT MADRAS,
REP. BY ITS REGISTRAR GENERAL,
HIGH COURT, MADRAS-600 104. ... PETITIONER/3rd PARTY

Vs

1 PALANIVELU ... RESPONDENT No.1/PETITIONER/
SOLE ACCUSED

2.THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
SAMPATTIVIDUTHI POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME No. 322/2020. ... RESPONDENT No.2/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Modify the directions contained in Paragraph 14(ii) of the order passed in Crl. OP(MD)No. 13495/2020 dated 27.11.2020.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.D.SIVARAMAN, Advocate for the petitioner and of Mr.K.SUYAMBULINGA BHARATHI, Government Advocate(Crl. Side) on behalf of the 2nd Respondent, the Court made the following order:-

The Petitioner / 3rd Party, Registrar General, High Court, Madras, has filed this petition, seeking modification of Paragraph 14(ii) of the order in Crl.O.P(MD)No.13495 of 2020, dated 27.11.2020.

2. This Court in order dated 27.11.2020, in Paragraph 14(ii), has passed the following orders :-

"14(ii). The Registrar General, High Court
of Madras, is directed to conduct a detailed



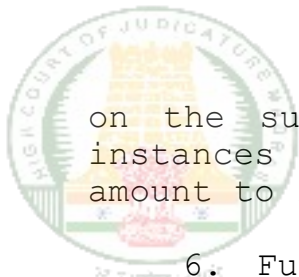
enquiry, including Vigilance Enquiry, regarding the irregularities and illegalities being committed by the Registry Officials at Madurai Bench of Madras High Court and initiate appropriate action against all concerned, including disciplinary proceedings."

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3. This Court has passed the order on finding that Crl.O.P(MD) No.12857 of 2020 in respect of the case registered under Section 302 of IPC., the bail petition was dismissed by this Court on 11.11.2020 and after Deepavali Holidays, the second bail petition in Crl.O.P(MD)No.13455 of 2020 was listed on 26.11.2020. The second bail application was not posted before the Court which dismissed the same, at the first instance, in violation of the Judgment of the Hon'ble Supreme Court in Special Leave Appeal (Crl.)No.872 of 2005, dated 13.01.2006 and the Circular in R.O.C.No.530-A/2006/F1, dated 08.02.2006. The sum and substance of the direction is that the successive bail applications to be posted before the same Hon'ble Judge, who had refused the bail in the first instance, unless that Hon'ble Judge is not available and the petition for cancellation of bail should also be posted before the same Hon'ble Judge, who granted bail in the first instance, unless that Hon'ble Judge is not available.

4. The Registrar General, Madras High Court, in the Modification Petition submitted that the bail petition in Crl.O.P (MD)No.12857 of 2020 was filed by one Chinna Esakki, on 09.11.2020 and the same was listed for hearing on 11.11.2020, before the Single Judge, who was incharge of portfolio on that day, since the regular portfolio Judge was not sitting. On the same day, the incharge portfolio Judge dismissed the bail petition. Thereafter, the 2nd bail petition was filed in Crl.O.P(MD)No.13455 of 2020 on 23.11.2020. This second bail application was listed before the Roster Judge, who was sitting on that day. Though Crl.O.P(MD) No.13455 of 2020 ought to have been listed before the Judge, who dismissed the earlier application at the first instance, due to oversight, the mistake has crept in, and it has been listed before the regular portfolio Judge. It is further seen that the directions issued in Para 14(ii) of the order dated 27.11.2020 is general and omnibus in nature. Further, if any irregularities were committed by the Staff of this Hon'ble Court and it is brought to the notice of the Registry, suitable action will be taken, through the Vigilance Cell headed by a Registrar in the cadre of District Judge and the same is functioning under the control of the Hon'ble The Chief Justice. Hence, listing of the second bail petition before the Roster Judge was in an over sight, unintentional. This submission is made based on the verification and analysis of the issue.

5. Considering the submissions and on perusal of the <https://www.cerules.com.in/cases/> Court finds that the earlier order was passed based



on the submission made by the Public Prosecutor that there are instances of cases being posted to a particular Bench, which would amount to forum shopping and bench hunting.

6. Further, in similar circumstances, the Division Bench of this Court in W.A.(MD)No.1061 of 2019, dated 23.10.2019 has held as follows:-

"10. We are conscious of the fact that every one of us, Judges and lawyers are deeply interested in the welfare of the Institution to function in an excellent manner. Nevertheless there is a self imposed restriction, to which we can exercise our jurisdiction in such matters. The Hon'ble Chief Justice is the Administrative Head of the Institution. Therefore, any direction or observation issued by any Court cannot impinge upon to exercise jurisdiction of the Hon'ble Chief Justice. The procedure adopted in the recruitment process has been clearly set out by the appellant and we are fully satisfied with the robust mechanism in place. It is true that there is room for improvement on all issues, that may not be a sole reason to hold that the present procedure is not effective."

7. The above observations are applicable to the case in hand, further, on perusal it is seen that the direction is based on a single stray incident. There is no particulars provided and available. Further, in view of the Judgment of the Hon'ble Supreme Court and the Circular (*cited supra*), the cases are being posted before the same Judge, who dealt with the case at the first instance, if they are available and a single stray incident cannot be taken as an yardstick to come to a conclusion that a detailed enquiry is needed to enquire into the irregularities and illegalities, if any, committed by the Registry Officials. This Court has no reason to doubt the affidavit of the Registrar General, Madras High Court, informing that the mistake committed in this case is due to over sight and unintentional. In view of the same, this Court modifies the order, dated 27.11.2020, deleting para 14(ii).

8. I hope and trust hereinafter, the Registry Officials shall follow the procedures in letter and spirit, without giving room for any such allegations in future. Accordingly, this Criminal Miscellaneous Petition stands allowed.

sd/-
08/02/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE REGISTRAR GENERAL,
HIGH COURT, MADRAS-600 104.

2. THE REGISTRAR(JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.878 of 2021

IN

CRL OP(MD) No.13495 of 2020

Date :08/02/2021

MPK

AE/JC/SAR-II (16/02/2021) 4P / 3C