



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

Thursday, the First day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

**CRL MP(MD) Nos.3126 and 3133 of 2021
IN
CRL RC(MD)Nos.316 and 321 of 2021**

SUJI @ KASI

... PETITIONER/PETITIONER

IN CRL MP(MD)No.3126/2021 IN CRL RC(MD)No.316/2021

THANGAPANDIYAN

... PETITIONER/PETITIONER

IN CRL MP(MD)No.3133/2021 IN CRL RC(MD)No.321/2021

Vs

STATE OF TAMILNADU REP.BY,
THE INSPECTOR OF POLICE,
CBCID NAGERCOIL,
KANYAKUMARI DISTRICT.
(ON THE FILE OF CCID CR.NO.4 OF 2020.)

... RESPONDENT/RESPONDENT

IN BOTH PETITIONS

COMMON PRAYER IN CRL MP(MD) Nos.3126 & 3133 of 2021 IN CRL RC(MD) Nos.316 & 321 of 2021:

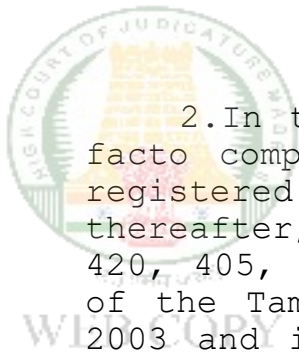
Petitions filed praying that in the circumstances stated therein and in the petitions filed therewith the High Court may be pleased to Stay all further proceedings in CC.No.28 of 2021 on the file of the Learned Judicial Magistrate No.III at Nagercoil, pending disposal of the Criminal Revision Petitions.

COMMON PRAYER IN CRL RC(MD)Nos.316 & 321/ 2021 :

To call for the records pertaining to the Order in Crl.MP.Nos.808 & 809 of 2021 respectively, in CC.No.28 of 2021 on the file of the Learned Judicial Magistrate Court No.III, at Nagercoil dated.03.03.2021 and set aside the same.

Order:These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.V.KATHIRVELU, Senior Counsel for Mr.S.SEENIVASAN, Advocate for the petitioner in both Petitions and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondents in both Petitions, the Court made the following order:-

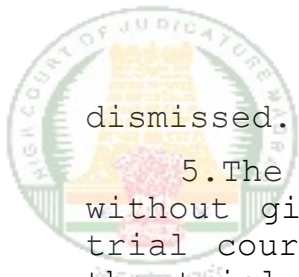
These Criminal Miscellaneous Petitions have been filed to stay of further proceedings in respect of C.C No.28 of 2021 on the file of the Judicial Magistrate No.III, Nagercoil, pending disposal of the criminal revision petitions.



2. In this case, the petitioners herein are A1 and A2. The de-facto complainant is one Dravid. Based on the complaint, FIR was registered in Crime No.4 of 2020 by the respondent police and thereafter, final report was filed for the offence under sections 420, 405, 461, 471, 484, 506(1), 120-B, 109, 419 IPC r/w Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2003 and it was taken on file by the learned Judicial Magistrate No.1, Nagercoil as C.C.No.316 of 2020. Thereafter, the petitioners/A1 and A2 filed Crl.OP(MD)Nos.9988 and 10462 of 2020 before this court, to withdraw the case in C.C No.316 of 2020 on the file of the Judicial Magistrate No.1, Nagercoil and to transfer the case to some other District. The said petitions were allowed by this court, on 16.10.2020 and the case was transferred to Judicial Magistrate No.III, Nagercoil and also permitted to apply for recall of the witnesses for the purposes of cross examination. The case was renumbered as CC No.28 of 2011 on the file of the Judicial Magistrate No.III, Nagercoil. In the meantime, the petitioners/A1 and A2 filed petitions in Crl.MP Nos.808 and 809 of 2021 before the trial court, for de-novo trial. The said petitions were dismissed by the trial court, by order, dated 03.03.2021. Challenging the same, the petitioners/A1 and A2 filed Crl.RC(MD)Nos.321 and 316 of 2021 before this Court. Along with these criminal revisions, the present Criminal Miscellaneous Petitions have been filed for the relief as stated above.

3. The learned counsel appearing for the petitioners/A1 and A2 argued that in this case, before the trial court, 35 witnesses were examined during pandemic period through virtual hearing and no Advocate was present for and on behalf of all the accused during examination of prosecution witnesses by the learned Judicial Magistrate No.1, Nagercoil and none of the accused knew anything about the formalities of online virtual court hearings and in haste and hurry manner, the Judicial Magistrate No.1, Nagercoil concluded the examination of all 35 prosecution witnesses himself and the accused were in jail, as a result of which, the accused were not able to cross examine the witnesses and the accused filed petition to transfer the case from the Judicial Magistrate No.1, Nagercoil to some other Magistrate court and the accused filed petitions for denova trial and they were dismissed and the trial court proceeded with the trial before disposal of the petitions and prays for staying further proceedings till the disposal of the criminal revision petitions.

4. On the other hand, the learned Government Advocate (Criminal side) appearing for the respondent/State submitted that due to pandemic situation, all the witnesses were examined through virtual mode and it is the duty of the counsel for the accused to cross examine the witnesses, but the advocates were not in a position to cross examine the witnesses and the trial court, after examining the prosecution witnesses, posted the case to defence side witnesses and hence, it is not necessary to stay the proceedings of the trial court and prays that the Criminal Miscellaneous Petitions are to be



dismissed.

5.The main contention of the petitioners/A1 and A2 is that without giving opportunity for cross examining the witnesses, the trial court proceeded the case. It is admitted on both sides that the trial was commenced through video conference. The trial court dismissed the petitions on the ground of denovo trial is not applicable to this case. Questioning the order the accused filed these criminal revision petitions and in the criminal revision petitions, only it is to be decided whether the permission for denovo trial is granted or not. At this stage, the merit of the case cannot be decided. Hence, this court is inclined to grant stay of all further proceedings in respect of CC No.28 of 2011 on the file of the Judicial Magistrate No.III, Nagercoil, till the disposal of the criminal revision petitions.

6.Accordingly, these Criminal Miscellaneous Petitions are allowed, by granting stay of all further proceedings in respect of CC No.28 of 2021 on the file of the Judicial Magistrate No.III, Nagercoil, till the disposal of the criminal revision petitions.

sd/-

01/07/2021

/ TRUE COPY /

/ /2021

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 JUDICIAL MAGISTRATE NO.III, NAGERCOIL.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

3.THE INSPECTOR OF POLICE,
CBCID NAGERCOIL, KANYAKUMARI DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD)Nos.3126 & 3133 of 2021
IN

CRL RC(MD)Nos.316 & 321 of 2021

Date :01/07/2021

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PK/AKM/SAR-V/05.07.2021 : 3P/5C

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