



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

Friday, the Twenty Third day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) NO.4927 OF 2021

in

CRL.A. (MD)NO.149 OF 2021

T.RAMKUMAR

... PETITIONER/ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
CENTRAL POLICE STATION,
THOOTHUKUDI,
(CRIME NO.211/2010)

... RESPONDENT/ COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to call for the records in Cr.M.P.1593/2021 in Crl.M.P.(MD) No.2486 of 2021 in SC No.320/2015 on the file of the Sessions Judge / Magila Neethimandram (FTC) Thoothukudi and set-aside the order passed in Cr.M.P.1593/2021 dated 17/04/2021 in Crl.M.P.(MD) No.2486 of 2021 and consequently order to obey the order passed in Crl.M.P.(MD) No.2486 of 2021 in SC No.320/2015 on the file of the Sessions Judge / Magila Neethimandram (FTC) Thoothukudi.

Prayer in CRL.A. (MD)NO.149 OF 2021:

To admit this Appeal on file and call for records from the Lower Court namely Magila Neethimandram / Sessions Judge (Fast Track Court), Tuticorin in SC No.320/2015 and to set-aside the Judgment passed in SC No.320/2015 on the file of the Magila Neethimandram / Sessions Judge (Fast Track Court), Tuticorin dated 09.03.2021 and thereby Acquit the above Accused from the charges.

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.KA.RAAMAKRISHNAN, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Government Advocate (Criminal Side) for the respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to set aside the order passed in Cr.M.P.No.1593 of 2021 in Crl.M.P(MD)No.2486 of 2021 in S.C.No.320 of 2015 on the file of the learned Sessions Judge/Mahila Neethimandram (FTC), Thoothukudi and consequently order to obey the order passed in Crl.M.P(MD)No.2486 of 2021 in S.C.No.320



2.The learned counsel appearing for the petitioner/Accused submitted that the trial Court has no jurisdiction to entertain the petition in Cr.M.PNo.1593 of 2021 and pass an order when the matter is pending before the High Court and the order passed by the trial Court is a clear judicial wrong and the trial Court has become 'Functus Officio' after passing a judgment in the above case and entertaining the above petition and passing such order is not proper and not good in law and prays that the Criminal Miscellaneous Petition may be allowed.

3.Records perused.

4.It is seen from the records that already the petitioner has filed a petition for suspension of sentence and this Court has suspended the sentence of the petitioner on 29.03.2021, with some conditions. On perusal of the above order it was stated that the petitioner should appear before the trial Court for a period of one week and thereafter as and when required by the trial Court. Now the period of one week is expired and the petitioner has filed a petition before the trial Court in Cr.M.P.No.1593 of 2021 for relaxation of condition and in that petition the trial Court modified the condition by order, dated 17.04.2021 and directed the petitioner to appear before the trial Court on the first working day of every English Calendar month. The order in the petition of suspension of sentence was ordered by this Court and now the Criminal Appeal as against the order is pending before this Court. Therefore, the trial Court has no jurisdiction to entertain the above petition in Cr.M.P(MD)No.1593 of 2021 and the trial Court has no power to pass order in the above petition. Hence, the order passed by the trial Court is not correct and the order in Cr.M.P.No.1593 of 2021 is set aside.

5.Accordingly, the Criminal Miscellaneous Petition is allowed.

sd/-
23/07/2021

/ TRUE COPY /

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

TO

1 THE SESSIONS JUDGE / MAGILA NEETHIMANDRAM (FAST TRACK COURT),
THOOTHUKUDI.

2 THE INSPECTOR OF POLICE

THOOTHUKUDI POLICE STATION, THOOTHUKUDI.



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

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ORDER
IN
CRL MP (MD) NO.4927 OF 2021
in
CRL.A. (MD) NO.149 OF 2021
Date :23/07/2021

VSD
MK/JC/SAR.III/25.08.2021/2P/4C