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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2022

CORAM:

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

CRL.O.P.No.4402 of 2022

S.Karthi

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Magudanchavadi Police Station,
Salem District.

... Respondent

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial Magistrate No.II, Sankagiri, to complete the trial of the case in C.C.No.324 of 2018, pending on its file, within a time limit to be stipulated by this Hon'ble Court.

For Petitioner : Mr.M.Vijaya Ragavan

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking direction to the Judicial Magistrate No.II, Sankagiri, to complete the trial of the case in C.C.No.324 of 2018, pending on its file, within the time stipulated by this Court.

2. The learned counsel for the petitioner submits that there are 17 witnesses in the prosecution side and so far no single witness was examined in this case.

3. The learned Additional Public Prosecutor submits that the case is posted on 14.3.2022 for examination of witnesses LWs 1 to 5 in the witnesses list.

4.Heard the submissions of the learned counsel for the petitioner and the learned Additional Public Prosecutor.

5. The record shows that the FIR in this case was registered on 07.11.2011, the case was taken cognizance for the offences



under sections 147, 148, 341, 294(b), 324, 326, 506(ii) r/w 149 IPC in C.C.No.324 of 2018, on the file of the Judicial Magistrate No.II, Sankagiri. The witnesses list shows that the prosecution has cited 17 witnesses and it is unfortunate that so far not even a single witness has been examined in this case. Therefore, the learned Judicial Magistrate No.II, Sankagiri, is directed to expedite the trial process and complete the trial within a period of three months from the date of receipt of a copy of this order. Further, the learned Judicial Magistrate No.II, Sankagiri, is directed to follow the directions of the Hon'ble Supreme Court in the case of Vinod Kumar Vs. State of Punjab reported in (2015) 3 SCC 220 and dispose of the case within the time stipulated by this Court. The relevant portion of the judgment is extracted hereunder:

57.Before parting with the case we are constrained to reiterate what we have said in the beginning. We have expressed our agony and anguish the manner in which trials in respect of serious offences relating to corruption are being conducted by the trial courts:

57.1.Adjournments are sought on the drop of a hat by the counsel, even though the witness is present in court, contrary to all principles of holding a trial. That apart, after the examination-in-chief of a witness is over, adjournment is sought for cross-examination and the disquieting feature is that the trial courts grant time. The law requires special reasons to be recorded for grant of time but the same is not taken note of.

57.2.As has been noticed earlier, in the instant case the cross-examination has taken place after a year and 8 months allowing ample time to pressurize the witness and to gain over him by adopting all kinds of tactics.

57.3.There is no cavil over the proposition that there has to be a fair and proper trial but the duty of the court while conducting the trial to be guided by the mandate of the law, the conceptual fairness and above all bearing in mind its sacrosanct duty to arrive at the truth on the basis of the material brought on record. If an accused for his benefit takes the trial on the path of total mockery, it cannot be countenanced. The Court has a sacred duty to see that the trial is conducted as per law. If adjournments are granted in this manner it would tantamount to



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violation of rule of law and eventually turn such trials to a farce. It is legally impermissible and jurisprudentially abominable. The trial courts are expected in law to follow the command of the procedure relating to trial and not yield to the request of the counsel to grant adjournment for non-acceptable reasons.

57.4. In fact, it is not all appreciable to call a witness for cross-examination after such a long span of time. It is imperative if the examination-in-chief is over, the cross-examination should be completed on the same day. If the examination of a witness continues till late hours the trial can be adjourned to the next day for cross-examination. It is inconceivable in law that the cross-examination should be deferred for such a long time. It is anathema to the concept of proper and fair trial.

57.5. The duty of the court is to see that not only the interest of the accused as per law is protected but also the societal and collective interest is safe-guarded. It is distressing to note that despite series of judgments of this Court, the habit of granting adjournment, really an ailment, continues. How long shall we say, "Awake! Arise!". There is a constant discomfort. Therefore, we think it appropriate that the copies of the judgment be sent to the learned Chief Justices of all the High Courts for circulating the same among the learned trial Judges with a command to follow the principles relating to trial in a requisite manner and not to defer the cross-examination of a witness at their pleasure or at the leisure of the defence counsel, for it eventually makes the trial an apology for trial and compels the whole society to suffer chicanery. Let it be remembered that law cannot allowed to be lonely; a destitute.

6. The respondent is directed to produce the witnesses on the date of hearing. It is also made clear that the learned counsel appearing for the petitioner/accused should not seek any adjournment when the witnesses are produced for examination and should complete the cross examination on the same day.



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7. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

sli

To

1. The Judicial Magistrate No.II,
Sankagiri.
2. The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Vijaya Ragavan, Advocate, S.R.No.12605

CRL.O.P.No.4402 of 2022

KK (CO)
CT 16/03/2022