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Crl.MP.No.17472 of 2022

in

Crl.OP.27877 of 2018

M.NIRMAL KUMAR, J.

This Petition has been filed by the Petitioner seeking clarification with regard to the order passed by this Court in Crl.OP.No.27877 of 2018 dated 09.04.2021.

2.The contention of the Petitioner/State is that the 1st Respondent/A1 is tried along with six others in SC.No.387 of 2005, thereafter due to non appearance of one of the accused/A4, case was split up and tried as SC.No.117 of 2016. Subsequently, A1 absconded himself, in the year 2019 and again the case was split up and tried as SC.No.198 of 2019.

3.Earlier, the trial Court in Crl.MP.No.12966 of 2018 by order dated 12.10.2018 finding that A1 absconded himself and on the Petition filed by the Respondent police, declared A1 as a proclaimed offender. Challenging the same, the 1st Respondent/A1 approached this Court in Crl.OP.No.27877 of 2018. This Court by order dated 09.04.2021 finding that A1 was inclined to



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participate in the trial, set aside the order passed by the trial Court in CrI.MP.No.12966 of 2018 dated 12.10.2018. Thereafter, directed the trial Court to club SC.No.198 of 2019, which is the split up case against A1 and mother case SC.No.387 of 2005 and conduct joint trial and conclude it within a period of six months.

4.The contention of the prosecution is that despite obtaining the said order A1/1st Respondent failed to participate in the trial. Hence again NBW issued. The prosecution formed a special team, made search in various places viz., Hyderabad, Agobilam and Srirangam and other places. The 1st Respondent could not be traced, in the meanwhile, trial in SC.No.387 of 2005 had come to penultimate stage, now except for examination of Investigating Officer, all other witnesses examined. Based on the order passed by this Court in CrI.OP.No.27877 of 2018, dated 09.04.2021, both SC.No.198 of 2009 and SC.No.387 of 2005 clubbed together. The apprehension is that since earlier A1 split up case SC.No.198 of 2019, clubbed together with the mother case SC.No.387 of 2005 on the orders of this Court, the trial Court despite NBW pending against A1, is reluctant to split up the case against A1



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issue proclamation and on the other hand the trial in SC.No.387 of 2005 getting delayed, unable to reach logical end. Hence, the prosecution constrained to file this Petition.

5.Learned counsel for the 1st Respondent submitted that though he initially appeared for 1st Respondent. Thereafter, he is unable to contact A1. He fairly submitted that earlier this Court clubbed SC.No.198 of 2019 with the mother case SC.No.387 of 2005. Thereafter Accused A1, failed to participate in the trial, NBW pending against him. In view of the subsequent conduct of Accused A1, the order passed in Crl.OP.No.27877 of 2018, dated 09.04.2021 is of no significance.

6.Considering the submissions made by the learned counsel and perusal of the records, it is seen at the instance of A1, this Court passed an order in Crl.OP.No.27877 of 2018, clubbing SC.No.198 of 2019 and SC.No.387 of 2005 and setaside the proclamation order. Despite obtaining the order, A1 failed to cooperate with the trial hence NBW issued, now A1 is absconding, despite NBW issued and best efforts taken by the Petitioner, A1 unable to be



secured. The 1st Respondent failed to comply with the order passed by this Court, cannot seek umbrage on the order passed by this Court in Crl.OP.No.27877 of 2018 dated 09.04.2021.

7.In view of the same, trial Court can take coercive and effective steps against A1 and other absconding accused, including issuance of proclamation, splitting up the case against A1. It is made clear that order passed in Crl.OP.No.27877 of 2018, dated 09.04.2021, has lost its relevance and its force, by the conduct and own making of the Respondent/A1. The trial Court to proceed and deal with absconding Accused A1 in accordance with law. It is made clear that the trial Court shall proceed with SC.No.387 of 2005, and bring to its logical end.

8.Accordingly, this Petition is disposed of.

22.11.2022

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Note: Issue order copy on 23.11.2022.



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Dated: 22.11.2022