



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction

Friday, the Second day of September Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) . No.8629 of 2022

in

MP(MD)1 of 2015

in

CRL.OP (MD) 4571 of 2014

1.Thaufiq Ali

2.Abdullah

... Petitioners/Petitioners

Vs

The State Rep.by its

The Inspector of Police

SIT CBCID Thideer Nagar Police Station

Madurai

(Crime No. 554 of 2013)

... Respondent/Respondent

Prayer :-CRL MP(MD) . No.8629 of 2022

Criminal Miscellaneous Petition filed under section 482 of Cr.P.C. to Modify the condition, to appear before the court on all the dates of hearing till disposa of trial, imposed by this Honble Court in Crl.O.P.(MD) No. 4571 of 2014, Dt. 25.07.2014 and pass such other orders as this Hon`ble Court.

Prayer in MP(MD) . 1/ 2015 in CRL OP(MD) .4571/2014 :

Criminal Miscellaneous Petition filed under section 482 of Cr.P.C to modify the condition imposed in Crl.O.P. (MD)No. 4571 of 2014 dated 25.07.2014 and direct the petitioners to appear before the trial court all the hearing dates in person or through their counsels and permit them to file 317 Cr.P.C. application and allow the petitioners to be represent through their counsel till completion of trial.

Prayer in CRL OP(MD) . 4571/ 2014 :

Criminal Original Petition filed under section 482 of Cr.P.C to call for the entire records pertaining to the order passed by the learned Judicial Magistrate Court NO.IV, Madurai in Cr.M.P.No.5861/2013 vide his order dated 07.11.2013 and set aside the same and consequently enlarge the petitioner on statutory bail



under Section 167(2) of Cr.P.C in cr.NO.554/2013 on the file of the Inspector of Police, Thideer Nagar police station, Madurai.

ORDER:- This Criminal Miscellaneous Petition coming on for orders on this day and upon perusing the petition and in support thereof and upon hearing the arguments of Mr.V.Ramamoorthy Advocate for Mr.M.Seenisulthan Advocate for the Petitioner and of Mr.S.Ravi , additional Public Prosecutor for the respondent, this Court made the following order:

The above Criminal Miscellaneous Petition has been filed seeking orders to modify the condition imposed in CrI.O.P.(MD) No.4571 of 2014, dated 25.07.2014 directing the petitioners to appear before the concerned Court on all the dates of hearing till the completion of trial.

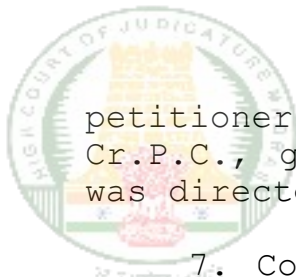
2. It is seen from the records that in the petition filed for modification in M.P.(MD)No.1 of 2015, this Court, vide order, dated 04.09.2015 has disposed of the said petition directing the petitioners to file an application under Section 317 Cr.P.C. along with genuine documents to condone the absence and on such filing, the trial Court was directed to consider and pass orders on the same on merits and in accordance with law.

3. When the matter was taken up for hearing on 27.07.2022, considering the submissions made by the learned Additional Public Prosecutor and the learned counsel for the petitioners, this Court directed the Registry to call for a report from the Special Court under the National Investigation Agency (NIA) Act as to why the charges were not framed so far and as to the present stage of the case.

4. In pursuance of the same, the learned Judge of the Special Court has submitted a letter, dated 29.08.2022 narrating the incidents and further stated that due to delaying tactics for engagement of counsels adopted by the accused 2 and 3, the Court was not in a position to frame the charges as against the accused 1 to 5.

5. The learned counsel for the petitioners would submit that since this Court has directed the petitioners to produce genuine documents, they are not in a position to apply to condone their absence and the Special Court taking note of the objections raised with regard to the said document, is not inclined to condone their absence.

6. The learned counsel for the petitioners would further submit that they are constrained to file the above application for seeking modification and has also produced the copy of the order passed in CrI.M.P.(MD)Nos.3809 and 3810 of 2017 in CrI.O.P.(MD)Nos.3432 and 3433 of 2014 dated 13.06.2017, wherein, this Court has directed the



petitioners therein to file an application under Sec 317 Cr.P.C., giving valid reasons and on such filing, the trial Court was directed to consider the reasons and pass appropriate orders.

7. Considering the above facts and circumstances and also the fact that the petitioners have been appearing before the concerned Court regularly, this Court is inclined to modify the condition to the effect that the presence of the petitioners before the trial Court may be dispensed with during trial and that when the petitioners file an application under Section 317 Cr.P.C., giving valid reasons, it is always open to the trial Court to independently consider the reasons and pass appropriate orders. If witnesses are present, the petitioners will have to be available for trial and if they are not available, the identity of the witness cannot be disputed. If the petitioners abscond, a fresh FIR can be registered against them under Section 229(A) of the Indian Penal Code.

8. With the above directions, this petition is ordered accordingly.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/09/2022

Sub Assistant Registrar(CS)

TO

1.The Judge, Special Court under the National Investigation Agency(NIA) Act, 2008 (Sessions Court for Exhaustive Trial of Bomb Blast Cases)

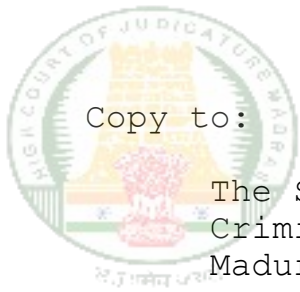
Karayamchavadi, Poonamalle, Chennai 600 056

2.The Judicial Magistrate No.I
Tirunelveli.

3.The Judicial Magistrate No.IV
Madurai.

4.The Inspector of Police
OCU, CBCID,
Tirunelveli city Police Station
in Crime No.1/2013

5.The Inspector of Police
SIT CBCID Thideer Nagar Police Station
Madurai



Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai

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+ 1 CC to Mr. Mr.M.Seenisulthan Advocte SR.n0.42623/2022

ORDER DATED : 02/09/2022

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ORDER

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CRL MP(MD) . No.8629 of 2022

in

MP(MD) 1 of 2015

in

CRL.OP(MD) 4571 of 2014

Giving direction and etc.

as stated within.

KB(14.09.2022) 4P 8C