



CrI.O.P.(MD) No.14518 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.14518 of 2022

K.Vellaisamy

...Petitioner

VS

**The Inspector of Police,
District Crime Branch,
Sivagangai.**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the learned Judicial Magistrate No.2, Sivagangai to conclude the trial in CC.No.80 of 2021 within the time stipulated by this Court.

For Petitioner : Mr.J.Malai Raja

For Respondent : Mr.R.Meenakshi Sundaram

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the learned Judicial Magistrate No.2, Sivagangai to conclude the trial in CC.No.80 of 2021.



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2.In continuation with the earlier order passed by this Court on

14.09.2022, the following order is passed. The earlier order is hereunder:-

“The learned Counsel appearing for the Petitioner submits that the Petitioner is a disabled person, who has preferred a complaint against one Rameesh, S/o.Abdul Kadhar, for the offences punishable under Sections 406, 468, 420 and 506(1) of IPC in Crime No.35 of 2019 on the file of the District Crime Branch, Sivagangai.

2.The learned Government Advocate (Crl.) appearing for the Respondent submits that a final report was filed before the learned Judicial Magistrate No.II, Sivagangai, on 17.04.2021 and the accused person filed a petition to discharge him from the case in M.P.No.3961 of 2021, which was dismissed on 01.08.2022 and the trial has commenced on 15.09.2021.

3.Considering the rival submissions, this Court seeks remarks from the learned Judicial Magistrate No.II, Sivagangai, with regard to the stage of C.C.No.80 of 2021. The learned Judicial Magistrate No.II, Sivagangai, shall also send the details of the cases, wherein stay had been granted and whether the case of this nature can be disposed of within a period of three months. The learned Judicial Magistrate No.II, Sivagangai, is directed to offer his/her remarks by writing or through e-mail to this Court, by 28.09.2022.

4.Call on 28.09.2022.”



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3. When the case came up for hearing today, 13.10.2022, the learned Additional Public Prosecutor for the Respondent submits that after filing the final report, the accused in this case had filed a petition in M.P.No.3961 of 2021 seeking discharge. The same was dismissed by the learned Judicial Magistrate No.II, Sivagangai on 01.08.2022. Therefore, this Court had sought remarks from the learned Judicial Magistrate No.II, Sivagangai regarding the time needed for disposal of the case in CC.No.80 of 2021.

4. In the remarks offered by the learned Judicial Magistrate No.II, Sivagangai in D.No.1276 dated 26.09.2022, it is stated that the accused had filed a discharge petition, which was dismissed by the learned Judicial Magistrate No.II, Sivagangai on 23.09.2022. There are 17 witnesses cited by the prosecution, among which three witnesses are Bank Officers, one witness is the District Registrar and one witness is the Forensic Expert. Therefore, he seeks more than three months time.

5. In the light of the above, the learned Judicial Magistrate No.II, Sivagangai is directed to fix the date for examination of the witnesses. The



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prosecution shall be directed to produce the witnesses on the specified date to be fixed by the learned Judge, particularly on a day-to-day basis. For example, independent witnesses can be examined on the first day. Here, in this case, as per the remarks offered by the learned Judicial Magistrate No.II, Sivagangai, there are 12 independent witnesses and 5 official witnesses. For the 12 independent witnesses as well as the 5 Official witnesses, the learned Judicial Magistrate No.II, Sivagangai can examine them on a day-to-day basis on three days. Therefore, if it is conducted on day-to-day basis for 15 days, examination of the witnesses can be completed and proceedings under Section 313 Cr.P.C can be done.

6.The learned Judicial Magistrate No.II, Sivagangai shall issue instructions to the Assistant Public Prosecutor appearing before the Court to appear on the specified date, when the witnesses are available and fix the date for examination of the witnesses as per the timetable on a day-to-day basis and complete the examination of the witnesses. Also, the learned Judicial Magistrate No.II, Sivagangai shall strict to the procedure of the examination of the witnesses as per the guidelines issued by the Hon'ble Supreme Court in the case of ***Vinod Kumar Vs. State of Punjab*** reported in



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CDJ 2015 SC 115. The learned Judicial Magistrate No.II, Sivagangai shall also not grant adjournments at the whims and fancies either to the accused or to the learned Counsel for the accused and complete the trial of CC.No. 80 of 2021 within the specified period of 3 months from the date of receipt of a copy of this order.

7.With the aforesaid directions, this Criminal Original Petition is disposed of. If the accused fails to cooperate with the trial Court, the learned Judicial Magistrate No.II, Sivagangai, within his discretion can cancel the bail as per the reported ruling of the Hon'ble Supreme Court in the case of P.K.Shaji Vs. State of Kerala reported in (2005) AIR SCW 5560, thereby detaining the accused in prison till the trial is completed.

Internet:Yes./No
Index:Yes/No
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13.10.2022

To

1.The Inspector of Police,
District Crime Branch,
Sivagangai.

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SATHI KUMAR SUKUMARA KURUP, J.

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2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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