



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.11.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.(MD) Nos.18936 and 18937 of 2022

Umadurai

..Petitioner in both petitions

Vs.

The Inspector of Police
Sipcot Police Station,
Sivagangai,
Sivagangai District

...Respondent in both petitions

COMMON PRAYER: Criminal Original Petitions have been filed under Section 482 Cr.P.C. praying to direct the District and Sessions Court, Sivagangai to dispose the S.C.Nos.128 of 2022 and 150 of 2022 on his file expeditiously.

(In both petitions)

For Petitioner : Mr.C.Jeganathan

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

COMMON ORDER

These Criminal Original Petitions have been filed to direct the learned District and Sessions Judge, Sivagangai to dispose the S.C.Nos. 128 of 2022 and 150 of 2022 on his file expeditiously.



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

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2. It is seen that when the case came up for committal proceedings in variably one of the accused not appearing before the Court thereby issuance of 317 Cr.P.C petitions and invariably Non Bailable Warrant subsequently cancelling of warrant by surrendering before the Court. Therefore the defacto complainant was forced to approach this Court seeking direction against the learned Judicial Magistrate, Manamadurai to commit the case to the Court of Sessions. The accused had been threatening the defacto complainant to withdraw the case. A1 was absconding. After the order passed by this Court in Crl.O.P(MD) No. 10686 of 2022 dated 16.06.2022, the learned Judicial Magistrate, Manamadurai had split up the case against A1 who was absconding and sent the P.R.C case by committal proceedings to the Court of the learned Principal District and Sessions Judge, Sivagangai. Regarding A2 to A8 on receipt of the records by the learned Principal Sessions Judge, Sivagangai the case against A2 to A8 were numbered as SC No.128 of 2022. In the meanwhile, the Respondent Police had secured A1 and also took steps to detain Thangaraju, Dinesh and Rajamaruthu under Goondas Act and they had been detained under Act.14 of 1982. The case pending against A1 before the learned Judicial Magistrate, Manamadurai was



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

also committed to the learned Principal Sessions Judge, Sivagangai which was numbered as S.C. No.150 of 2022.

3.The learned Additional Public Prosecutor fairly concedes the facts.

4. In the light of the above, the learned Counsel for the Petitioners submits that he had approached this Court seeking direction to the learned Principal Sessions Judge, Sivagangai to dispose of the case during this period.

5. Considering the *modus operandi* of the accused before the learned Judicial Magistrate during committal proceedings and the fact that the Petitioner/defacto complainant was forced to approach this Court seeking direction to the committal proceedings only then the learned Magistrate was able to commit the case.

6. When the Hon'ble Supreme Court had issued guidelines to the Courts granting bail, whether it may be Magistrate Court, whether it is



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

Sessions Court, whether it is High Court, while granting bail based on 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]***, the Investigation Officer/Station House Officer of the police station is given the discretion to approach the Court of the learned Judicial Magistrate in cases where the accused after release of bail is not cooperating either with the investigation or with the trial proceedings. Here as per the submission of the learned Counsel for the Petitioner after laying of the final report the accused had not cooperated with the committal proceedings. The Station House Officer of the Sipcot Police Station is found to be negligent. When there are umpteen number of cases against each of the accused he had not acted as per the reported ruling of the Hon'ble Supreme Court by approaching the learned Judicial Magistrate, Manamadurai seeking cancellation of bail. Further one of the condition while granting bail is that the accused shall not threaten the witness or interfere in the due process of investigation. There also it is found that the Station House Officer of the Sipcot Police Station had remained indifferent forcing the defacto complainant to approach this Court seeking direction.



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

WEB COPY

7. It is found that even after obtaining order in his favour, the learned Judicial Magistrate, Manamadurai was about to commit the case A1 absconding and now A1 to A3 are detained under Act.14 of 1982 as per the submission made by the learned Additional Public Prosecutor from 30.10.2022. The steps taken by the Station House Officer to detain them under Act. 14 of 1982 is appreciated.

8. The learned Principal Sessions Judge, Sivagangai is directed to proceed with the trial giving top priority to this particular case by issuing trial proceedings through the learned Judicial Magistrate, Manamadurai to the Station House Officer, Sipcot Police Station to trace the witness and produce all the 32 witnesses promptly on the specified date fixed by the learned Principal District and Sessions Judge, Sivagangai, so that independent witnesses can be examined in the first three or four days thereby completing the deposition and relegating the official witnesses for fifth day. The rest of official witnesses can be relegated. The witnesses are to be produced promptly as per the time table fixed by the learned Principal Sessions Judge. The Principal Sessions Judge is



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

directed to give one month sufficient time for the Station House Officer to trace the witness and file report through the learned Judicial Magistrate, Manamadurai regarding the availability of the witnesses, so that the witnesses can be promptly produced on the date mentioned by the learned Sessions Judge in his proceedings. The learned Sessions Judge is directed to issue proceedings giving out specific date for production of witnesses and shall fix the trial granting one month sufficient time. Trial proceedings shall be issued within three days from the date of receipt of a copy of this order. He shall take this case as top priority and after disposal of the case pending before him/her shall also report compliance to this Court. If the persons who are not detained under Act 14 of 1982, namely A4 to A8 are not cooperating with the Court either by filing 317 Cr.P.C Petition or leading out to Non Bailable Warrant, the Station House Officer of the Police Station shall secure the accused and produce them before the trial Court. The learned Sessions Judge shall act accordingly 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]***, by cancelling the bail and detain them in prison till the disposal of the case, including those persons who are detained



Crl.O.P.(MD) Nos.18936 and 18937 of 2022

under Act.14 of 1982. If the proceedings are quashed against the persons who are detained under Act.14 and if they are released from detention and if they are not cooperating with the trial the learned Sessions Judge, shall pass appropriate orders in the light of the reported ruling of the Hon'ble Supreme Court of India in the case of ***P.K.Shaji vs. State of Kerala***, reported in ***[(2005)AIR SCW 5560]***, by disposing the case within a reasonable period of one or two months.

9. With the above direction these Criminal Original Petitions are disposed of.

03.11.2022

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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Note: Issue order copy on 07.11.2022

To

1. The IV Additional District and Sessions Court, Tirunelveli
2. The Inspector of Police
Tirunelveli Taluk Police Station,
Tirunelveli District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD) Nos.18936 and 18937 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

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Crl.O.P.(MD) Nos.18936 and 18937 of 2022

03.11.2022