



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Criminal Original Jurisdiction



Thursday, the Twenty Seventh day of October Two Thousand and Twenty Two

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PRESENT

The Hon`ble Mr.Justice SATHI KUMAR SUKUMARA KURUP

CRL OP(MD) No.20852 of 2021

C.Johnncy

... Petitioner

Vs

The Inspector of Police,
Kottar Police Station,
Kottar,
Nagercoil, Kanniyakumari District.
(Crime No. 36 of 2015)

... Respondent

Prayer :-

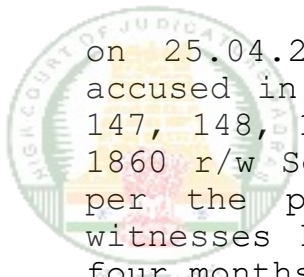
This Criminal Original Petition filed under Sec. 482 of Cr.P.C., to direct the learned Additional District and Sessions Judge, Kanniyakumari District at Nagercoil to dispose of the case in S.C.No. 113 of 2017 pending on the file of the Additional District and Session Court, Nagercoil, Kanniyakumari within a time fixed by this Court.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon perusing the letter D.No.9295/2022, dated 22/09/2022 from the Additional District and Sessions Judge, Fast Track Court, Nagercoil; this Court made the following order:

The learned Additional District and Sessions Judge (Fast Track Court), Nagercoil, Kanniyakumari District, in Letter D No.9295 of 2022, dated 22.09.2022, seeks extension of time to dispose of the case in S.C.No.113 of 2017.

2.As per the order of this Court in Cr1.O.P(MD).No.20852 of 2021, dated 03.01.2022, the case in S.C.No.113 of 2017 was ordered to be disposed of within a period of eight months from the date of receipt of a copy of the order.

3.As per the letter of the learned Additional District and Sessions Judge (Fast Track Court), Nagercoil, Kanniyakumari District, the post of Additional District Judge, Nagercoil, was vacant from 01.03.2020 to 24.04.2022, excluding the brief period from 30.04.2021 to 15.06.2021. The Principal District and Sessions Judge, Nagercoil, was holding the full additional charge of the Court of the Additional District Judge, Nagercoil during the aforesaid period. The present Judicial Officer assumed charge only



on 25.04.2022. Further, he would submit that there are 44 witnesses accused in S.C.No.113 of 2017. Charges were framed under Sections 147, 148, 120(B), 302, 294(b) and 506(ii) of the Indian Penal Code, 1860 r/w Section 149 of Indian Penal Code, 1860 on 19.03.2022. As per the prosecution, there are 44 witnesses, out of whom, 23 witnesses had been examined. Therefore, he seeks further time of four months.

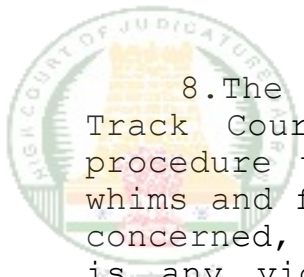
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4. When there are 44 witnesses, it is for the Presiding Judge to fix a date for examination of witnesses on day-to-day basis. When the trial is fixed in S.C.No.113 of 2017, the learned Judge shall not take up other cases. He shall take up only the trial in S.C.No.113 of 2017. As per the provisions of Code of Criminal Procedure, when the trial commences, the learned Sessions Judge shall complete the trial within a fixed time. It is for him to fix a date and direct the Station House Officer concerned to produce the witnesses, as per the Chapter XVIII of the Code of Criminal Procedure.

5. Before ever the learned Sessions Judge fix the trial in a Sessions Case, the learned Sessions Judge shall issue Sessions Trial proceedings after consulting the learned Public Prosecutor. The Sessions trial proceedings give a time table to examine witnesses right from L.W.1 to the last witness to the Investigation Officer in such a manner directing the Station House Officer of the Police Station concerned to produce witnesses say L.W.1 to L.W.5 on Day-1, L.W.6 to L.W.10 on Day-2, L.W.11 to L.W.18 on Day-3, L.W.19 to L.W.25 on Day-4, L.W.26 to L.W.36 on Day-5, L.W.37 to L.W.44 on Day-6. The proceedings shall be sent to the Station House Officer concerned through the Court of the learned Judicial Magistrate concerned giving sufficient time for Station House Officer to report regarding the availability of the witness so as to produce witnesses promptly on the dates mentioned in the proceedings of the learned Sessions Judge.

6. As per the list of witnesses produced by the Investigating Officer in the final report, if there are 44 witnesses, the learned Additional District and Sessions Judge, Fast Track Court, Nagpur, shall fix exact dates. For example, the first day of opening of the prosecution evidence, independent witnesses shall be examined either 5 witnesses or 10 witnesses on the first day itself. The second day, remaining independent witnesses shall be examined. Similarly, two or three days may be fixed for independent witnesses and then the subsequent days for official witnesses.

7. If the recording of evidence commences on Monday, by Friday or next Monday, the learned Sessions Judge shall complete the examination of witnesses. If he is not holding the Court as Presiding Judge (as an assertive Judge), then he is at the whims and fancies of the Station House Officer of the Police Station concerned, who may produce the witnesses to their convenience, once in a while, either one witness in 10 days or two witnesses in a period of one month. That is not the procedure as per the provisions of Chapter XVIII of the Code of Criminal Procedure.



8. The learned Additional District and Sessions Judge, Fast Track Court, Nagercoil, is directed to scrupulously follow the procedure to conduct the criminal trial. He should not be at the whims and fancies of the Station House Officer of the Police Station concerned, who shall co-operate with the Presiding Judge. If there is any violation by the Station House Officer concerned in not producing the witnesses on time, the learned Judge can pass order in the concluding paragraph of the judgment reflecting the conduct of the Station House Officer concerned in not co-operating with the Court, which will attract disciplinary proceedings also. Such order helps the appellate Judge to appreciate evidence as well as the conduct of the Prosecution including the Station House Officer concerned.

9. In the light of the above, the learned District and Sessions Judge, Fast Track Court, Nagercoil, is directed to complete recording of evidence of remaining witnesses within a fortnight (Fifteen days). It is also obvious that in Sessions case trial, the learned judge shall fix trial one month in advance and give out the dates, on which he intends to examine the witnesses, like, L.Ws (independent witnesses), remaining L.Ws (day 2), day 2 means second date, not on the adjourned date, which shall be within the same week. Therefore, the learned District and Sessions Judge, Fast Track Court, Nagercoil, is directed to scrupulously follow this method in future. He shall not grant any adjournment on the ground of recalling witnesses for cross-examination. He shall scrupulously follow the dictum of the Hon'ble Supreme Court in the case of **Vinod Kumar v. State of Punjab** reported in (2015) 1 MLJ (Cr1) 288 (SC). The learned Additional District and Sessions Judge, Fast Track Court, Nagercoil, is directed to complete the trial within a period of two months.

10. Post this matter 'for reporting compliance' on **02.01.2023**.

Sd/-

Assistant Registrar (CS III)

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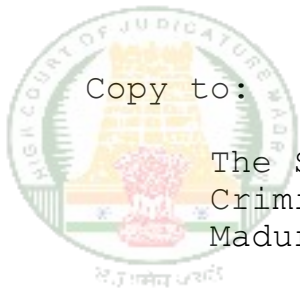
/11/2022

Sub Assistant Registrar (CS)

To

1. The Additional District and Sessions Judge,
Fast Track Court,
Kanniyakumari District at Nagercoil

2. The Inspector of Police,
Kottar Police Station,
Kottar,
Kanniyakumari District.



Copy to:

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



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ORDER DATED : 27/10/2022

FOR REPORTING COMPLIANCE : 02/01/2023

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ORDER

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CRL OP (MD) . No.20852 of 2021

Giving direction and etc.
as stated within.

MGJ/VRS (17.11.2022) 4P 4C