



Crl.O.P.(MD) No.20984 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.11.2022

PRONOUNCED ON : 02.12.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P (MD) No.20984 of 2022

M.Karthick

...Petitioner

VS

1.The Director General of Prisons,
Tamil Nadu.

2.The Commissioner of Police,
Madurai

3.The Deputy Commissioner of Police,
South Zone, Madurai City.

(R1 to R3 have been *suo motu* impleaded
by this Court)

4.The Inspector of Police,
Theppakulam Police Station,
Madurai City,
Madurai
Crime No.604 of 2017

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to direct the learned I Additional District Sessions Judge, Madurai,
to conduct day to day trial and to complete the same in S.C.No.424 of 2019



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pending on the file of the 1st Additional District Court, Madurai within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.Niranjana S.Kumar for
Mr.M.Keerthi Prasanna
For Respondents : Mr.R.Suresh Kumar
Government Advocate

ORDER

This Criminal Original Petition had been filed to direct the learned I Additional District Sessions Judge, Madurai, to conduct day-to-day trial and to complete the same in S.C.No.424 of 2019 within a stipulated time that may be fixed by this Court.

2.It is the submission of the learned Counsel for the Petitioner that the Petitioner had been arrayed as first accused in Crime No.604 of 2017 and as second accused in the final report. Further, he submitted that the Petitioner had completed Law Degree in the year 2015. Due to this pending criminal case, he is unable to get enrolled as a member of Bar Council of Tamil Nadu and Puducherry. Therefore, he seeks direction against the learned I Additional District Sessions Judge, Madurai, to complete the trial in S.C.No.424 of 2019, within the stipulated time.



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3.The learned Counsel for the Petitioner would further submit that Article 226 of the Constitution of India is a guaranteed right to its citizens. He, in support of his contention, would rely on the reported ruling of the Hon'ble Supreme Court in the case of ***Hussainara Khatoon and others Vs. Home Secretary, State of Bihar, Patna*** reported in ***AIR 1979 Supreme Court 1360***, wherein it had been stated as under:-

“5.There is also one other infirmity of the legal and judicial system which is responsible for this gross denial of justice to the undertrial prisoners and that is the notorious delay in disposal of cases. It is a bad reflection on the legal and judicial system that the trial of an accused should not even commence for a long number of years. Even a delay of one year in the commencement of the trial is bad enough; how much worse could it be when the delay is as long as 3 or 5 or 7 or even 10 years. Speedy trial is of the essence of criminal justice and there can be no doubt that delay in trial by itself constitutes denial of justice.....”

4.The learned Government Advocate, on instructions from the Deputy Commissioner of Police, had submitted that the Deputy Commissioner of Police, South Zone, Madurai City, in his report, had stated that the third accused, Saba @ Sabarathinam was transferred to the Central Prison,



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Coimbatore and the fourth accused, Dyno Kumar @ Kumaran was transferred to the Central Prison, Vellore on administrative ground by the proceedings of the Director General of Prisons.

In the light of the report of the Deputy Commissioner of Police, Madurai, the Director General of Prisons is suo-motu impleaded as a necessary party.

5.To proceed with the trial in S.C.No.424 of 2019 pending on the file of the learned I Additional District Judge, Madurai, the third accused, Saba @ Sabarathinam and the fourth accused, Dyno Kumar @ Kumaran had to be necessarily confined in a Prison nearer to Madurai. If they are to be confined in Central Prison Madurai or any other sub jail available in Madurai, they can be brought to the Court without much delay. Considering the right of defence, which is a constitutional guaranteed right to the accused and considering the principles of fair trial and speedy trial, particularly when the accused is in prison, the trial has to be conducted earlier.



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6. Accordingly, the Director General of Prisons is directed to consider the possibility of keeping the prisoners, Saba @ Sabarathinam and Dyno Kumar @ Kumaran in any of the prisons nearer to Madurai, so that they can be produced without much delay to enable the learned Sessions Judge to proceed with the trial without delay. If they are confined in the prison in Vellore as well as Coimbatore, it will cause delay in transporting the third accused, Saba @ Sabarathinam, who is confined in Central Prison, Coimbatore and the fourth accused, Dyno Kumar @ Kumaran, who is confined in Central Prison, Vellore, which is far away from Madurai. Therefore, till the case in S.C.No.424 of 2019 is disposed of, the Director General of Prisons is directed to pass appropriate orders.

7. The learned I Additional District Judge, Madurai is directed to frame the charges and proceed with the trial, so that the trial can be disposed of within the reasonable period. Before proceeding with the trial and before commencing the argument by the prosecution, the learned I Additional District Judge, Madurai is directed to address the Commissioner, Madurai City and the Director General of Prisons regarding the production of the accused confined in the Central Prison, Coimbatore and the Central Prison,



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Vellore, to confine them in any of the jails nearer to Madurai, so that they can be produced without much delay.

8.The learned I Additional District Judge, Madurai is also directed to frame the charges after hearing the prosecution and the accused. After framing the charges, the learned I Additional District Judge, Madurai is directed to fix the trial and pass trial proceedings, so that the examination of the list witnesses can be completed within the reasonable period of 10 to 15 days. Also, it is directed that the independent witnesses may be examined on the first 2 or 3 days continuously and the Official witnesses can also be examined after completion of the evidence of the independent witnesses.

9.The learned I Additional District Judge, Madurai is also directed to fix the dates, on which the list witnesses 1 to 5 or 1 to 10 are to be examined on the 1st day, the list witnesses 6 to 10 are to be examined on the 2nd day and the list witnesses 11 to 15 are to be examined on the 3rd day. Likewise, the independent witnesses can also be examined continuously for the first three days and the Official witnesses can also be examined on the next two or three days. In such a manner that the recording of evidence is to be



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completed within a week or 10 days.

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10.Considering the reported ruling of the Hon'ble Supreme Court in the case of *Vinod Kumar Vs. State of Punjab* reported in *CDJ 2015 SC 115*, the learned Sessions Judge shall follow the said ruling regarding exercise of power under Section 311 Cr.P.C. and shall not use the same leniently. The appearing Counsels shall be directed to cross examine the witnesses from the date on which they had deposed evidence as prosecution witnesses.

11.The learned I Additional District Judge, Madurai shall not act as per the whims and fancies of the learned Counsels for the accused or on behalf of the accused in not proceeding with the cross-examination and seeking to recall the witnesses. That shall be avoided, when there is specific direction by the High Courts to dispose of the case within the reasonable period.

12.In the light of the above, the learned I Additional District Judge, Madurai is also directed to dispose of the case in S.C.No.424 of 2019 within



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the reasonable period of three months from the date of receipt of a copy of this order.

13.Considering the submission of the learned Counsel for the Petitioner and the learned Government Advocate for the Respondent that the accused 3 and 4 have been confined away from the Central Prison, Madurai. For the purpose of issuing directions, the Director General of Prisons, Tamil Nadu, the Commissioner of Police, Madurai and the Deputy Commissioner of Police, South Zone, Madurai City are impleaded as Respondents 1 to 3 respectively and the original Respondent/the Inspector of Police, Theppakulam Police Station, Madurai City, Madurai is rearranged accordingly.

14.The Respondents 1 to 4 are directed to co-operate with the trial proceedings and produce the accused. The Respondents 2 to 4 shall produce the witnesses promptly without delay before the Court concerned. Therefore, the learned I Additional District Judge, Madurai, will be able to complete the trial within the reasonable period of two or three months, as the case may be. Also, they shall ensure protection to the witnesses for fair



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trial, so that the witnesses depose without any fear.

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15.In the result, this Criminal Original Petition is allowed.

Internet :Yes./No
Index :Yes/No
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02.12.2022

To

- 1.The Director General of Prisons,
Tamil Nadu.
- 2.The Commissioner of Police,
Madurai
- 3.The Deputy Commissioner of Police,
South Zone, Madurai City.
- 4.The Inspector of Police,
Theppakulam Police Station,
Madurai City,
Madurai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
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