



Crl.O.P.No.9110 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.No.9110 of 2022
and Crl.MP.No.5302 of 2022

V.C.Ajeethkumar
S/o.Chezhian

... Petitioner/Accused-1

Vs.

The State rep.by
Inspector of Police
Bhavanisagar Police Station
Erode District.

... Respondent /Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the order dated 20.1.2021 made in CMP.No.62/2020 in STC.No.42 2020 on the file of the learned III Additional District and Sessions Judge, Gobichettipalayam at Erode District and set aside the same.

For Petitioner : Mr.G.Maniprabhu

For Respondent : Mr.A.Gopinath
Govt.Advocate (Crl.Side)

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner u/s 205 Cr.PC., to dispense with his appearance and to permit his counsel to appear on behalf of him.



Crl.O.P.No.9110 of 2022

2. When the matter came up for hearing on 11.7.2023, this Court passed the following order :

The respondent is directed to file a status report and explain as to why there is absolutely no progress in the case from the year 2020 onwards. It is brought to the notice of this Court that even charges have not been framed till now. Hence, before passing final orders in this case, this Court wants to ascertain the status of the case. Post this case under the caption 'for orders' on 25.07.2023.

3. Pursuant to the above order, a status report has been filed by the respondent. It is seen from the status report that originally there were 15 accused persons. A2 and A3 died on 06.1.2016 and 8.2.2016 and hence, charges against them stands abated. Similarly, A.13 also passed away and the charge against A.13 also stands abated. Pursuant to the earlier order passed by this Court in Crl.OP.Nos.3882 and 3888 of 2020, the cases which were split up have now been clubbed and SC.No.77 of 2017, has been clubbed with SC.No.60 of 2017 and those sessions cases pertains to A.5, A.8, A.9 and A.15. SC.No.42 of 2020, pertains to the petitioner (A1). Accordingly, as of now only five accused persons (A.1, A.5, A.8, A.9 and A.15) will have to face the trial before the Court below. Insofar as A.11, it is yet in the PRC stage in PRC No.7/2017.

4. Heard Mr.Mr.G.Maniprabhu, learned counsel for the petitioner and Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing on behalf of



Crl.O.P.No.9110 of 2022

the respondent.

WEB COPY

5.Taking into consideration the facts and circumstances of the case, it is seen that only due to the abscondence of A5 against whom the NBW is pending, the proceedings have not progressed any further. If A5 continues to abscond, it is left open to the Court below to proceed further in accordance with Rule 32 of the Criminal Rules of Practice, 2019. It is not necessary for the Court below to wait for securing A5 to proceed further with the trial. This Court has also dealt with one such case and has given guidelines in **H.Aarun Basha .Vs. State of Tamil Nadu** reported in **(2019) 1 LW Crl. 15**. This Court has extensively dealt with the scope of Section 299 of Cr.PC.

6.In the light of the above discussion, there shall be a direction to the III Additional District and Sessions Judge, Erode, to proceed further to hear SC.No.42 of 2020 and SC.No.60 of 2017 together. The charges can be framed and the Court below can proceed with the trial. If A5 is not able to be secured, the Court shall follow the procedure under Rule 32 of the Criminal Rules of Practice, 2019.

7.Insofar as the petitioner/A1 is concerned, he shall be present before the Court below at the time of framing of the charges, at the time of questioning u/s 313 of Cr.PC., and at the time of delivering the judgment. That apart, the petitioner shall also be present before the Court below as and when required by the Court below. On all the other occasions, the petitioner shall be represented by a counsel



Crl.O.P.No.9110 of 2022

and such counsel shall cross examine the witnesses on the same day they are examined in chief. The petitioner will also not be allowed to question the identity of any witness since the petitioner is allowed to be represented through a counsel.

8. There shall be a direction to the III Additional District and Sessions Judge, Erode, to complete the proceedings within a period of **six months** from the date of receipt of copy of the order. The Court below shall strictly follow the guidelines of the Apex Court in ***Vinod Kumar .v. State of Punjab*** reported in ***[2015 (1) MLJ (Crl) 288 SC]***. If any attempt is made to drag on the proceedings, it is left open to the Sessions Court to act in accordance with the judgment of the Apex Court in ***STATE OF UTTAR PRADESH .v SHAMBHU NATH SINGH*** reported in ***(JT 2001 (4) SC 3191)***.

9. This criminal original petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

25.07.2023

Internet: Yes
Index : Yes/No
Neutral Citation Case: Yes/No
KP



CrI.O.P.No.9110 of 2022

WEB COPY

To

1. Inspector of Police
Bhavanisagar Police Station
Erode District.
2. III Additional District and Sessions Judge
Gobichettipalayam at Erode District.
3. The Public Prosecutor
High Court, Madras.

N. ANAND VENKATESH, J.



WEB COPY



Crl.O.P.No.9110 of 2022

KP

Crl.O.P.No.9110 of 2022
and Crl.MP.No.5302 of 2022

25.07.2023