



Crl.R.C.No.598 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.598 of 2024

Prasanna

... Petitioner

Vs.

The State, rep. by its,
Assistant Commissioner of Police,
Thirumangalam Circle,
Greater Chennai, Chennai 600 101.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to allow this Criminal Revision and set aside the impugned order dated 21/03/2024 passed by learned XIII Metropolitan Magistrate, Egmore, Chennai made in Crl.M.P.No.15913 of 2024 in Crime No.90 of 2024 on the file of the respondent Police.

For Petitioner : Mr.Durai Kannan

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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accused in Crime No.90 of 2024 till 01.04.2024. Challenging the same, the present Criminal Revision Case is filed by A3, the petitioner herein.

4.The contention of the petitioner is that the request for Police custody of the petitioner is unwarranted. After arrest, the petitioner gave confession statement, based on which, recoveries made. In this case, the Investigating Officer not specifically averred the reason and necessity for taking the petitioner into Police custody. Added to it, the Investigating Officer in the remand request not mentioned anything about the petitioner refusing to cooperate during investigation and for what reason Police custody is required. Further, what is the fact to be disclosed through the petitioner is not indicated. The Police custody is sought is only to fabricate the evidence against the petitioner. In this case, the respondent Police not complied with Rule 6(6) of the Criminal Rules of Practice. In support of his contention, the learned counsel for the petitioner relied on the decision in the case of “***Central Bureau of Investigation Versus Anupam J.Kulkarni reported in 1992 AIR 1768***”



5.The learned Additional Public Prosecutor appearing for the respondent Police filed counter submitting that in this case, FIR in Crime No.90 of 2024 registered, the petitioner/accused arrested along with other accused, produced for remand on 14.03.2024, remanded till 28.03.2024 and sent to judicial custody. Thereafter, seeking police custody the affidavit of the Assistant Commissioner of Police filed and statement recorded, the jurisdictional Court satisfied, ordered notice to the petitioner to be produced on 20.03.2024, petitioner produced and seen through video conference, informed about the Police custody petition and was directed to be produced in person on 21.03.2024, petitioner present along with his counsel, enquiry held, counter received, objections heard and thereafter the impugned order passed on 21.03.2024. The contention of the petitioner that no sworn statement filed is not correct. Likewise Rule 6(6) of the Criminal Rules of Practice not followed is not proper. Before the Trial Court, no such contention made, in the counter objections, reference made to the affidavit of the respondent. The petitioner along with other accused planned to commit murder and terror in the city. On information, the Police went to the hotel, encircled the premises, secured the petitioner and other accused and



seized huge cache of arms including pistols. The supplier of the pistol was identified who is from Bihar. The Police team had gone to Bihar to trace out the weapon mafia and to arrest the accused. As regards this petitioner, two pistols and twelve rounds of bullets seized, produced before the jurisdictional Court and B.No.952 of 2024 dated 22.03.2024 assigned. The petitioner was possessing unlicensed illegal pistols for the purpose of committing serious offence including murder, extortion in future. The petitioner during initial interrogation failed to give details with regard to possession of pistols, how and from whom fire arms acquired for what purpose and to whom it was intended. If such activities are not curtailed with iron hands at the initial stage, gun culture will enter the peaceful State of Tamil Nadu creating terror and mayhem. Thereafter, restoring peace will be a difficult task. He further submitted, now general elections already notified, maintenance of law and order is the prime and foremost requirement.

6.The learned Additional Public Prosecutor attempted to differentiate the case of “*Central Bureau of Investigation Versus Anupam J.Kulkarni*”



reported in 1992 AIR 1768” referring to “V.Senthil Balaji Versus State represented by Deputy Director and Others reported in (2024) 3 Supreme Court Cases 51”.

7.The learned counsel for the petitioner relying on **Anupam J.Kulkarni** case submits that '*the Judicial Magistrate can in the first instance authorize the detention of the accused in such custody i.e., either police or judicial from time to time but the total period of detention cannot exceed fifteen day in the whole. Within this period of fifteen days there can be more than one order changing the nature of such custody either from police to judicial or vice-versa. There cannot be any detention in the police custody after the expiry of first fifteen days even in a case where some more offences either serious or otherwise committed by him in the same transaction come to light at a later stage. Thus, first period of fifteen days mentioned in Section 167(2) has to be computed from the date of such detention and after the expiry of the period of first fifteen days it should be only judicial custody*'. This principle holds good even as on date. In the case of **Senthil Balaji** (cited supra), the facts and circumstances are totally



different and nowhere they overruled the *Anupam J.Kulkarni* case. In paragraph 91 referred the issue, whether 15 days period of custody in favour of the police should be only within first 15 days of remand or spanning over the entire period of investigation – 60 or 90 days, as the case may be, as a whole. Hence, as on date it is only *Anupam J.Kulkarni* case which is to be followed.

8.At this stage, the learned Additional Public Prosecutor submitted that the petitioner to be produced before the jurisdictional Magistrate after medical examination as per Section 55 of Cr.P.C. since he is no more required for further investigation as of now.

9.In this case, the petitioner was arrested on 13.03.2024, remanded to judicial custody on 14.03.2024 for a period of fifteen days i.e., till 28.03.2024. In the meanwhile, following the procedures Police custody petition filed, notice ordered, petitioner produced, objections filed, considered and thereafter Police custody granted for fourteen days from 19.03.2024 to 01.04.2024. Be that as it may, now the petitioner has been



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produced before the learned Magistrate and submitted to the judicial custody i.e., within the period of first remand of 15 days i.e., on 28.03.2024.

10.In view of the same, the prayer sought for by the petitioner is no more required. Hence, this Criminal Revision Case stands dismissed as infructuous.

28.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Note: Issue Order Copy on 01.04.2024.



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To

- 1.The XIII Metropolitan Magistrate,
Egmore, Chennai.
- 2.The Assistant Commissioner of Police,
Thirumangalam Circle,
Greater Chennai, Chennai 600 101.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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