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Crl.O.P.No.21862 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.21862 of 2023

V.S.Prabhu,
S/o.V.K.Sakthivel

...Petitioner

Vs

1. E.C.Duraisamy,
S/o.Chinnappa Gounder

2. State rep. by
The Inspector of Police,
District Crime Branch,
Erode.
Crime No.45/2013

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to direct the learned II Additional District and Sessions court, Erode to send back the original records of the C.C.No.446 of 2019 to the trail Court i.e., Learned Judicial Magistrate No.II, Erode as per the directions issued by the Hon'ble Apex Court reported in *2018 (16) SCC 340 (Asian Resurfacing of Road Agency Private Limited & Another – Vs. CBI)* by appreciating the above stated facts and circumstances.



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For Petitioner : Mr.M.Guruprasad
For Respondents : Mr.A.Gopinath [R1]
Government Advocate [Crl.Side]

ORDER

This Criminal Original petition has been filed seeking to direct the learned II Additional District and Sessions court, Erode to send back the original records of the C.C.No.446 of 2019 to the trial Court i.e., Learned Judicial Magistrate II, Erode.

2. A report has been received from the III Additional District Judge, Gobichettipalayam, who was holding the additional charge of the II Additional District Judge, Erode.

3. It is seen that the criminal revision cases filed in the year 2020 are yet to be disposed of and they are pending for nearly 3 ½ years. In the meantime, the Court below has also called for the original case papers from the trial Court and as a result of which, the entire case has come to a standstill.

4. There shall be a direction to the learned III Additional District



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Judge, Gobichettipalayam, who is the in-charge of the II Additional District

Judge (FAC), Erode to send back the entire original case papers to the file of learned Judicial Magistrate II, Erode forthwith. The Court below shall also pass final orders in CRP.Nos.25 to 26 of 2020 and 31 of 2020 within a period of four(4) weeks from the date of receipt of a copy of this order.

5. This Court had already directed the learned Judicial Magistrate No.II, Erode to complete the proceedings in C.C.No.446 of 2019 within a period of six months. However, filing of the discharge petitions before the Court below has dragged on the proceedings. Hence, depending upon the order passed in the discharge petitions, the learned Judicial Magistrate No.II, Erode shall proceed further in C.C.No.446 of 2019 and dispose of the same within a period of three months thereafter.

6. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in ***Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]***. If the petitioners adopt any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioners and remand them to custody as per the



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judgment of the Hon'ble Supreme Court in ***STATE OF UTTAR PRADESH***

VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191).

Accordingly, this Criminal Original Petition is disposed of in the
above terms.

05.03.2024

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mp

To

1. The learned II Additional District and Sessions court,
Erode.
2. The learned Judicial Magistrate No.II,
Erode.
3. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

mp

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