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Crl.R.C.No.1997 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1997 of 2023

Darling Vincent

... Petitioner

Vs.

State by

Inspector of Police,

H-6, RK Nagar Police Station,

Chennai.

Crime No.148 of 2023

... Respondent

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order passed by the Hon'ble Principal Special Judge, EC and NDPS Court, Chennai in Crl.M.P.No.6411 of 2023 dated 12.10.2023.

For Petitioner : Mr.M.Jaikumar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



Crl.R.C.No.1997 of 2023

ORDER

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This Criminal Revision Petition has been filed challenging the order passed by the Trial Court in granting extension of statutory period of investigation in Crl.M.P.No.6411 of 2023 filed under Section 36(A)(4) of the NDPS Act.

2.The contention of the learned counsel for petitioner is that the extension petition of statutory period of investigation was filed by the respondent on 29.08.2023, i.e., on the 169th day. Thereafter notice was served on the petitioner on 11.09.2023 and thereafter there was no representation. In the meanwhile, since the charge sheet was not filed, the petitioner had filed a petition under Section 167(2) of Cr.P.C. on 14.09.2023, i.e., on the 185th day, praying to enlarge the petitioner/accused on statutory bail. The Lower Court by a common order dated 12.10.2023 allowed the extension petition filed by the respondent and dismissed the statutory bail petition filed by the petitioner.



Crl.R.C.No.1997 of 2023

WEB COPY

3.He further submitted that the Lower Court stated that both Crl.M.P.No.6411 of 2023 and Crl.M.P.No.6917 of 2023 were originally posted to 26.09.2023 but Crl.M.P.No.6411 of 2023, which was filed under Section 36(A)(4) of the NDPS Act was inadvertently posted to 30.10.2023. Hence, the Trial Court *suo-motu* advanced the date of hearing to 12.10.2023 and the petitioner was not aware about the advancement of the date.

4.The learned Government Advocate (Crl. Side) submits that the petitioner had challenged only the extension petition. The primary contention of the petitioner is that the accused or his counsel to be informed about the filing of the petition. In this case admittedly, extension petition was filed on 29.08.2023, notice was served on 11.09.2023 thereafter the case was periodically adjourned and finally posted to 30.10.2023 for passing of orders. Since it was an inadvertent mistake, the Trial Court had advanced the hearing for pronouncing orders on 12.10.2023. The consideration of the Trial Court is that the prosecution has to prove the requirement and stage of the



Crl.R.C.No.1997 of 2023

WEB COPY

investigation and why such extension is required. The Trial Court on satisfying with the reasons given by the prosecution had rightly extended the statutory period of investigation.

5.Considering the submissions made and on a perusal of the materials available on record, it is seen that for extension petition the requirement is that notice has to be given to the other side. In this case admittedly notice has been served on the petitioner on 11.09.2023. The pronouncement of order was made on 12.10.2023 instead of 30.10.2023 by *suo-motu* advancing the date. That does not prejudice the petitioner in any manner. Further after satisfying with the Special Public Prosecutor request for extension of statutory period of investigation, the Trial Court had rightly considered the same and granted extension of time. In view of the above, this Court finds no merits in this revision. Hence, this Criminal Revision Case is dismissed.



Crl.R.C.No.1997 of 2023

6.It is made clear that if the petitioner's right under Section 167(2)

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Cr.P.C. is not considered in this petition, it is for the petitioner to agitate the same, if he so desires, by a separate petition.

13.02.2024

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

Neutral Citation : Yes/No

rsi

To

1.Inspector of Police,
H-6, RK Nagar Police Station,
Chennai.

2.The Principal Special Judge,
EC and NDPS Court, Chennai.

3.The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.1997 of 2023

M.NIRMAL KUMAR, J.

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Crl.R.C.No.1997 of 2023

13.02.2024