



Crl.O.P.(MD) No.2227 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.2227 of 2024

Eliza Chandra Vathani

...Petitioner

VS

**The Inspector of Police,
Kottar Police Station,
Kanniyakumari District.
(Cr.No.219 of 2019)**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the learned Additional District Court (Fast Track), Nagercoil to expeditiously dispose of the case in S.C.No.59 of 2022 within a time frame fixed by this Court.

**For Petitioner : Mr.K.Anand
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor**



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ORDER

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The learned Counsel for the Petitioner submitted that the Petitioner had filed this Petition seeking a direction against the learned Additional District Judge (Fast Track Court), Nagercoil, to dispose of the case in S.C.No.59 of 2022 expeditiously.

2.It is the submission of the learned Counsel for the Petitioner that the case arose out of the murder of the Petitioner's husband by the persons, who are arrayed as accused in this case and she had been cited as LW-5 in the charge sheet. Therefore, she seeks early disposal of the case. It is his further contention that the Petitioner has to return back to Sri Lanka. He further submitted that her stay in the Refugee Camp had already expired and she had extended the stay only to depose evidence before the trial Court as a witness. The Petitioner has a child, who had to attend the School in Sri Lanka. The child is studying 8th standard in Sri Lanka. It is the further contention that the education of the child is also affected because of her stay in India.



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3.This Court by order dated 13.02.2024, call for remarks from the learned Additional District Judge, Fast Track Court, Nagercoil, regarding the year wise pendency of Sessions Cases in the Court of the Additional District (Fast Track Court), Nageroil and also directed to offer remarks whether witnesses are examined by virtual mode in the Fast Track Court, Kanniyakumari.

4.The learned Additional District Judge, Fast Track Court, Nagercoil, submitted his remarks vide letter in D.No.1520/2024, dated 19.02.2024,wherein, it is stated that the learned Additional District Judge, Fast Track Court, Nagercoil, also holding Full Additional Charge of the Special Court for Exclusive trial for POCSO Act cases and he is overburdened with pendency of cases. The learned Additional District Judge, Fast Track Court, Nagercoil, submitted that the Petitioner, who is cited as witness, is not an eye witness or a material witness. She had been shown as a witness in the charge sheet only regarding the motive for the alleged occurrence. Till date, no witness had been examined through virtual mode before the learned Additional District Judge, Fast Track Court, Nagercoil.



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5. In the light of circumstances highlighted by the the learned Additional District Judge, Fast Track Court, Nagercoil, it is noted that the Petitioner herein is cited only as a witness by the prosecution to prove the motive for the murder. Therefore, under such circumstances, she is not an material witness regarding the case of the prosecution. Under those circumstances, the Petitioner is directed to approach the learned Additional District Judge, Fast Track Court, Nagercoil, by filing appropriate Petition seeking permission to leave the territory after giving appropriate undertaking. The learned Additional District Judge, Fast Track Court, Nagercoil, shall entertain the application filed by LW-5 in the charge sheet in S.C.No.59 of 2022 after hearing the prosecution. The learned Additional District Judge, Fast Track Court, Nagercoil, shall pass appropriate orders either permitting the Petitioner to leave India and to appear on virtual mode, if necessary, or rejecting her request. It is clearly the discretion of the learned Additional District Judge, Fast Track Court, Nagercoil. The learned Additional District Judge, Fast Track Court, Nagercoil, shall pass appropriate orders, if any Petition is filed on behalf of the LW-5. The Petition shall be disposed of within a period of one month from the date of



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filing of the Petition.

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In the result, the ***Criminal Original Petition*** is disposed of.

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

21.02.2024

cmr

Note: Issue order copy by **23.02.2024**.

To

- 1.The learned Additional District Court (Fast Track), Nagercoil.
- 2.The Inspector of Police,
Kottar Police Station,
Kanniyakumari District.



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SATHI KUMAR SUKUMARA KURUP, J.

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