



Crl.O.P.(MD)No.21138 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.21138 of 2023

Divyabala

... Petitioner

Vs

1.The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukkottai District.
Cr.No.6/2022.

2.Anbu Vijayakumar

...Respondents

(R2 is impleaded as per order of the Court, dated 03.04.2024 in Crl.MP(MD) No.4061 of 2024 in Crl.OP(MD) No.21138 of 2023 by BPJ)

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial Magistrate, Aranthangi, Pudukkottai District to complete the trial CC.No.165/2022 within the time stipulated by this Court.

For Petitioner

: Mr.A.Saravanan.

For R1

: Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

For R2

: Mr.K.Mahendran



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ORDER

The petitioner/the defacto complainant in CC No.165 of 2022, which is pending on the file of the Judicial Magistrate Court, Aranthangi has approached this Court, seeking a direction to the learned Judicial Magistrate to conclude the trial as expeditiously as possible.

2.The learned counsel appearing for the petitioner submits that the case, which was registered in the year 2022 is pending for want of appearance of A1. A1 is absconding and evading the trial. Therefore, the trial could not be proceeded.

3.The learned Additional Public Prosecutor appearing for the first respondent submits that for the occurrence took place on 24.01.2022, a complaint was lodged on 19.03.2022. Final report was also filed on 18.11.2022 and the same is pending before the Judicial Magistrate Court, Aranthangi. A Non-Bailable Warrant has been issued as against the first accused and it is pending. The Superintendent of Police has also issued a look out circular against A1, who is in abroad.



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4.The learned counsel appearing for A1/the second respondent herein has entered appearance and submits that A1 is working in abroad. Since the defacto complainant's father is a police officer, the case has been foisted in the month of March 2022, when A1 was in abroad. However, the final report was filed as if the second respondent has absconded. In view of the pendency of the look out circular, he is not in a position to visit India. Now, he is prepared to come to India and co-operate for the trial.

5.This court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner has approached this Court that the trial has not been proceeded in CC No.165 of 2022, for want of A1. A1 claims that the defacto complainant's father is a police officer and therefore, a case has been foisted and final report was also filed, when he was in abroad. It appears that a look out circular is also pending as against A1.



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7.Considering the facts and circumstances of this case, this

Criminal Original petition is disposed of with the following directions:-

- i. The second respondent/A1 is directed to file an affidavit of undertaking before the concerned Magistrate Court and also before the Superintendent of Police, Pudukottai by specifying the date, on which he is intending to come to India and appear before the Magistrate Court.
- ii. On filing of such affidavit, the Superintendent of Police shall make a request to the concerned authorities to recall the look out circular. The second respondent/A1 on his arrival, shall file an application before the concerned Magistrate Court to recall the Non Bailable Warrant issued as against him, on the undertaking that he will be available for trial in future.
- iii. The learned Judicial Magistrate, Aranthangi shall keep the Non Bailable Warrant issued as against the first accused/the



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second respondent herein in abeyance, enabling him to appear before the trial Court.

iv. The second respondent/first accused shall surrender his passport before the trial Court.

v. The trial court shall conclude the trial in CC No.165 of 2022, as expeditiously as possible.

15.07.2024

NCC : Yes/No

Index : Yes/No

vrn

To

1. The Judicial Magistrate Court,
Aranthangi,
Pudukkottai District.

2. The Inspector of Police,
All Women Police Station,
Aranthangi,
Pudukkottai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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