



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Civil Appellate Jurisdiction

Monday, the Twenty Fourth day of March Two Thousand and Twenty Five

PRESENT

The HONOURABLE MR. JUSTICE P. DHANABAL

CRL MP(MD). No.2071 of 2025

in

CRL OP(MD)2336/2024

1. Theiva Kannan ... Petitioner/ Appellant/ Accused No.5

Vs

- 1 The State of Tamil Nadu,
Rep by the Superintendent of Police,
Thoothukudi District.
- 2 The Deputy Superintendent Of Police,
O/o the Deputy Superintendent of Police,
Thoothukudi District.
- 3 The Inspector of Police,
Seidhunganallur Police Station ,
Thoothukudi District.
Crime No. 118/2023
- 4 M.Selvi,
W/o Mayandi, No. 5/100,
Sudali Kovil Street, Kalvoy, Srivaikundam Taluk,
Thoothukudi District. ... Respondents



Prayer :-

Criminal Miscellaneous Petition Under Section 482 of Cr.P.C(U/S 528 of BNS)

To recall the order passed by this Honble court in Crl O.P (MD) No. 2336 of 2024 dt. 20.02.2024.

Prayer in CRL OP(MD). 2336/ 2024 :

Criminal original Petition filed under section 482 of Cr.P.C To Direct the Learned Judicial Magistrate Court No.II, Srivaikundam, Thoothukudi District to expedite the committal proceedings within the stipulated time framed fixed by this Honble Court and to forward the case in P.R.C.No.125/2023.

ORDER:

Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Thiru./Ms. M/s.V.Ramasubbu, Advocate for the Petitioner and of Thiru./Ms.

M/s.M.Sakthikumar GA (Crl Side), Government Advocate for the respondent(s), this Court made the following order:

"This petition has been filed by the petitioner to recall the order passed by this Court in Crl.O.P(MD)No.2336 of 2024 dated 20.02.2024.

2. The learned counsel appearing for the petitioner would submit that the petitioner is one of the accused in this case and he was arrayed as A5. While so, the defacto complainant who is the fourth respondent herein had approached this Court in Crl.O.P(MD) No.2336 of 2024 for speedy disposal of the case and this Court directed the trial Court to dispose of the case within a period of three months from the date of receipt of this order. Therefore the trial Court based on that direction for speedy disposal of the case within three months conducted the case in a hurried



manner without giving opportunity to the petitioner . More over this Court passed orders without hearing the petitioner and the fourth respondent herein not impleaded the petitioner as one of the party and got order, thereby violated the principles of natural justice. The respondent police have not furnished all the documents relied by them through final report. Statements recorded under Section 164 of Cr.P.C., have not been served along with the copies under Section 207 of Cr.P.C., Where they are about to file application for certified copies in the mean time most of the court records spoiled due to flood and thereby he was informed to wait some time. Whiles the defacto complainant obtained order without impleading the accused as parties ,therefore the order has to be recalled.

3. The learned counsel appearing for the fourth respondent would submit that the husband of the fourth respondent engaged counsel to conduct the case and thereafter due to some difference of opinion between them the said advocate threatened the husband of the fourth respondent and thereafter her husband was murdered, thereby she lodged complaint and the said advocate was arrayed as one of the accused in this case and the case is pending without any committal and thereby she approached the Court for speedy disposal of the case. This Court also passed an order by directing the learned Judicial Magistrate No.II, Srivaikundam to ensure that the committal proceedings will be completed within a period of one month and after committal proceedings the learned Principal Sessions Judge, Thoothukudi shall take steps for earlier disposal within a reasonable period of three



months. Now in order to delay the proceedings, the present petition has been filed.

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4. The learned Government Advocate(Crl.Side) appearing for the respondents 1 to 3 would submit that the petitioner is arrayed as A5 in this case and the husband of the defacto complainant was murdered and in that case the petitioner is one of the accused and now the case is posted for trial. Earlier the fourth respondent approached this Court through main petition and the same was allowed directing the trial Court to complete the trial within a reasonable period of three months and now the trial is going on.

5. Heard both sides and perused the materials available on record.

6. According to the petitioner the fourth respondent herein without impleading the petitioner as one of the party obtained order from this Court for speedy disposal of the case. Another ground raised by the petitioner is that due to direction of this Court the trial Court without giving opportunity hastily passing orders in the interlocutory application filed by the petitioner, therefore this Court ought not to have ordered for speedy disposal of the case, since it would affect the fair trial. This Court perused the records. This Court in the main petition passed orders on 20.02.2024 by directing the learned Judicial Magistrate No.II, Srivaikundam to ensure committal proceedings and complete the same within a period of one month and after committal of the case the learned Sessions Judge shall take steps for early disposal of the case within a reasonable time of three months. The fourth respondent has not impleaded the accused in the said case as party.



Though the petitioner is not party to the proceedings, speedy disposal will no way affect the right of the petitioner. It is well settled that speedy trial is the fundamental right.

7. At this juncture the learned counsel appearing for the petitioner relied on the following judgments:

- a) Abdul Rehman Antulay etc,ETC.vs. R.S. Nayak and another etc., reported in 1992 1 SCC 225
- b) P.Rama chandra Rao .vs. State of Karnataka reported in 2002 4 SCC 578
- c) High Court Bar Association,Allahabad.vs. State of Uttar Pradesh and others reported in 2024 6 SCC 267

8. On careful perusal of the above said judgments it is clear that the criminal courts are not obliged to terminate trial or criminal proceedings merely on account of lapse of time and it is neither advisable, nor feasible nor judicially permissible to draw or prescribe an outer limit for conclusion of all criminal proceedings. Further the Court has to decide whether the trial or proceedings have become so inordinately delayed as to be called oppressive and unwarranted. Such time-limits cannot and will not by themselves be treated by any Court as a bar to further continuance of the trial or proceedings and as mandatorily obliging the court to terminate the same and acquit or discharge the accused. In appropriate cases jurisdiction of High Court under [Section 482](#) of Cr.P.C., and [Articles 226](#) and [227](#) of Constitution can be invoked seeking appropriate relief or suitable directions.



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9. Since the prayer of the petitioner is in respect of speedy disposal of the case the said order will no way affect the rights of the petitioner. Non impleading the petitioner is not a ground to recall the order. More over this Court passed order to complete the trial within a period of three months, even now in the month of March 2025 no case has been disposed as directed by this Court. It shows that the trial Court is affording opportunity to the petitioner. Further according to the petitioner the learned Magistrate dismissed the petition filed by one of the accused and the same was dismissed. Similarly before the trial Court also petition to discharge the accused was filed and the same was also dismissed on the ground of outer limit of time fixed by this Court. While so, it is for the aggrieved person to challenge the order before the appellate Court, without challenging those orders in the manner known to law this petition has been filed to recall the order passed by this Court. Therefore the argument of the petitioner that due to the order of this Court for speedy disposal of the case will affect the right of the petitioner is not acceptable. It is well settled law if any order obtained by playing fraud the Court can recall the order. In this case though the petitioner is not a party to the proceedings order passed by this Court will no way affect the right of the petitioner since the prayer of the petitioner is only for speedy disposal. Therefore the contention of the petitioner is not acceptable and there are no grounds to recall the order.

10. Hence the petition stands dismissed. However the trial Court is directed to comply with the order of this Court without giving long adjournments and the



petitioner is also directed to co-operate for speedy disposal of the case."

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Sd/-

Assistant Registrar (C.O)

/ /2025

Sub Assistant Registrar
(CS - I/II/III/IV)

TO

1. The Judicial Magistrate Court No.II,
Srivaikundam,
Thoothukudi District.
2. The State of Tamil Nadu,
Rep by the Superintendent of Police,
Thoothukudi District.
- 3.The Deputy Superintendent Of Police,
O/o The Deputy Superintendent of Police,
Thoothukudi District.
- 4.The Inspector of Police,
Seidhunganallur Police Station,
Thoothukudi District.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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ORDER DATED : 24/03/2025

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ORDER

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CRL MP(MD). No.2071 of 2025
in
CRL OP(MD).2336 of 2024

KVL(22/05/2025) 8P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.