



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

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

THE HONOURABLE MR. JUSTICE P. DHANABAL

CRL MP(MD). No.2113 of 2025

in

CRL OP(MD)2336 Of 2024

1.P.Pon Esakki

... Petitioner/ Accused No.8

Vs

1 M.Selvi,  
No. 5/100, Sudali Kovil Street, Kalvoy,  
Srivaikundam Taluk, Thoothukudi District.

2 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.

Crime No. 118/2023

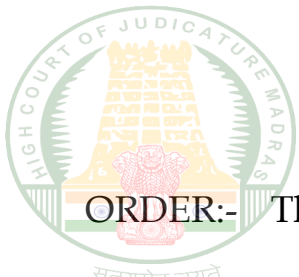
... Respondent/Respondent/Complainant

Prayer :CRL MP(MD). No.2113 of 2025

Criminal Miscellaneous Petition filed under section 482 of Cr.P.C /Section 528 BNSS, to recall the order made in CrI O.P (MD) No. 2336 of 2024 dt. 20.02.2024 by this Honble court and pass such further or other orders.

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:-** This Criminal Original 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 M/s.V.Angusamy, Advocate for the Petitioner and of M/s.M.Sakthikumar, Government Advocate for the respondents 2 to 4, this Court made the following order:

"This petition has been filed by the petitioner to recall the order passed by this Court in CrI.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 A8. While so, the defacto complainant approached this Court in CrI.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. One Venkatesh who is A9 in this case filed a petition seeking further investigation of Crime No.118 of 2023 before the learned Judicial Magistrate No.I, Srivaikundam but the same was dismissed citing reason of the order passed by this Court for speedy disposal. The said A9 also filed discharge petition and the same was also dismissed by the I Additional District Court, Thoothukudi and on the same day charges were frames. More over this Court passed orders without hearing the petitioner and the fourth respondent herein has not impleaded the petitioner as



one of the party and got order, thereby violated the principles of natural justice.

Therefore the order passed by this Court has to be recalled.

3. The learned counsel appearing for the first respondent would submit that the husband of the first 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 first 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.

4. The learned Government Advocate(Crl.Side) appearing for the respondents 1 to 3 would submit that the petitioner is arrayed as A8 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 first 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.



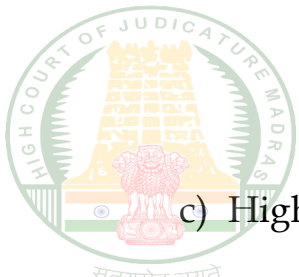
5. Heard both sides and perused the materials available on record.

6. According to the petitioner the first 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 co-accused, 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 first 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

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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.

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.

Sd/-

24/03/2025

// True Copy //

/ /2025

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



1. The Judicial Magistrate Court No.II,  
Srivaikundam, Thoothukudi District

2. 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.

ORDER DATED : 24/03/2025

ORDER

CRL MP(MD). No.2113 of 2025  
IN  
CRL OP(MD)2336/2024

Giving direction and etc.  
as stated within.

KVL(22/05/2025) 7P/ 6C

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