

ITEM NO.10

Court 2 (Video Conferencing)

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Crl.) No.3411/2020

(Arising out of impugned final judgment and order dated 20-03-2020 in CRLMP(MD) No. 2872/2020 passed by the High Court of Judicature at Madras at Madurai)

SENTHIL KUMAR

Petitioner(s)

VERSUS

SUNDARAVEL RAMESH & ORS.

Respondent(s)

(IA No. 96590/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 10-03-2021 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s)

Mr. M. Karpagavinayagam, Sr. Adv.
Mr. Nitin Kumar, Adv.
Mr. S. Gowthaman, AOR

For Respondent(s)

Mr. Arijit Prasad, Sr. Adv.
Mr. D.Kumanan, AOR

Mr. Jayanth Muth Raj, Sr. Adv.
Mr. M. Yogesh Kanna, AOR
Mr. RajaRajeshwaran. S., Adv.
Mr. Aditya Chadha, Adv.
Mrs. Uma Prasuna Bachu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

The present Special Leave Petition arises out of the impugned order dated 20.03.2020 passed by the Madurai Bench of the Madras High Court, whereby Respondent No. 1's application was allowed. The

application had been filed by the Respondent No. 1 seeking relaxation of certain conditions imposed by the High Court in its earlier order dated 28.01.2020 while allowing his original petition seeking withdrawal of the lookout notice issued against him. Petitioner, being the de-facto complainant in the matter, has filed the present Special Leave Petition challenging the relaxation of conditions by the High Court *vide* the impugned order.

A conspectus of the facts necessary for the disposal of the present petition are as follows: Petitioner herein was the brother-in-law of the Respondent No. 1, that is, his sister and Respondent No. 1 got married in 2007 (and have subsequently allegedly got a divorce decree). A daughter was born on 06.09.2009, while Respondent No.1 and his wife were residing in Singapore. Allegedly, due to disputes between the two, the wife left their daughter with her elder sister in India. The Petitioner's allegation, in the First Information Report lodged by him on 27.01.2013 under Sections 294(b), 341, 324 and 506(ii), IPC read with Section 3(1), Prevention of Damage to Public Property Act, 1984 against the Respondent No. 1's brother and others, is that the accused persons attacked the Petitioner and his friend with weapons, damaged his friend's vehicle and threatened the Petitioner before fleeing. It appears from the record that another FIR has also been registered by the Petitioner against Respondent No. 1. Proceedings relating to both the cases are going on simultaneously.

It appears from the record that the trial was delayed for a substantial period of time due to the difficulty in serving the Respondent No. 1 and securing his presence. There appear to have been several rounds of warrants/look out circulars issued against the Respondent No. 1, as well as orders passed by the Trial Court and High Court regarding bail, and recall/withdrawal of the warrants and look out circulars issued against the Respondent No. 1, and the conditions imposed for the same.

The present petition arises out of one such petition preferred by the Respondent No. 1 before the Madurai Bench of the Madras High Court under Section 482, Cr.P.C. seeking withdrawal of the latest look out notice issued against him with respect to the FIR registered by the Petitioner in 2013. Taking into consideration the peculiar facts of the case, the High Court vide order dated 28.01.2020 directed the Respondent No. 2 to withdraw the abovementioned look out circular subject to the following conditions:

"(i) The petitioner shall arrive in India on or before 12.02.2020 and surrender his passport to the immigration authority.

(ii) Thereafter, he shall surrender before the learned Judicial Magistrate No. I, Pudukottai on or before 13.02.2020 and execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the above said Magistrate.

(iii) The sureties shall affix their photographs and left Thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(iv) The petitioner shall file an affidavit of undertaking that he will not leave India till the disposal of the criminal cases and he will cooperate for the progress of trial and he will also undertake that the prosecution witnesses will be cross examined on the same day of their examination in chief. In the event of non-cooperation, the trial Court shall take steps in accordance with law laid down by the Honourable Supreme Court of India in the case of State of Uttar Pradesh Vs Shambunath Singh reported in (2001) 4 SCC 667."

Respondent No. 1 filed an application for modification of this order, specifically with respect to conditions (ii) and (iv) imposed by the High Court. After hearing the counsel for Respondent No. 1, the High Court allowed the relaxation of the conditions vide

impugned order dated 20.03.2020, including the condition earlier imposed on Respondent No. 1 regarding the filing of an affidavit by him that he will not leave India till the disposal of the criminal cases. The High Court modified this condition in the following manner:

"4. The petitioner's counsel states that the petitioner will surrender before the Court concerned within a period of one week from the date of receipt of a copy of this order. He will file an affidavit before the committal Court that he will execute special vakalat nominating a counsel. The said counsel will represent him throughout. Even though this is a Sessions Case and Section 205 of Cr.P.C., is not applicable, this Court under Section 482 of Cr.P.C., permits the petitioner to appear through special counsel. The learned committal Magistrate or the Sessions Judge can dispense with the presence of the petitioner and get along with the case. This arrangement is devised so that the petitioner's employment will not be affected and at the same time the progress of the case also will not be affected. The petitioner is bound to file an affidavit before the committal Court as well as before this Court indicating his address for service. It should not be difficult for this Court or the Trial Court to reach the petitioner on the said mobile number or E-mail ID. Under no circumstance, the E-mail ID or the mobile number will be changed. If the petitioner makes himself scarce and not available, that will be construed as an act of contempt and this Court will come down very heavily on the petitioner and that the petitioner will have to pay a very heavy price.

5. The petitioner's will cross examine the prosecution witnesses on the same day of their chief examination. The petitioner is at liberty to leave India after execution of the sureties before the Court below. The third respondent is directed to return the petitioner's passport."

(emphasis supplied)

The Petitioner, being aggrieved by the relaxation granted by the High Court to the Respondent No. 1, particularly regarding his presence before the Trial Court and his travelling out of the

country, has filed the present petition by Special Leave before this Court.

Learned senior counsel for the Petitioner states that the trial in the present matter has been pending for a long time. He further submitted that the High Court erred in exercising its discretion in favour of Respondent No. 1 in the absence of the Petitioner, particularly taking into account the conduct of Respondent No. 1.

On the other hand, the learned counsel for Respondent No. 1 urged that the discretion exercised by the High Court in his favour was appropriate in light of his professional responsibilities in Singapore, and to do complete justice in the matter.

Having heard learned Senior counsel appearing for the petitioner, learned counsel appearing for Respondent No.1 and learned counsel appearing for Respondent Nos. 2 and 3 – State and carefully perusing the material available on record, we are of the view that the present Special Leave Petition can be disposed of with a direction to the concerned Trial Court to expedite the trial, and not to grant unnecessary adjournments in the case unless there is a reasonable cause, and conclude the same within a period of four months from the date of communication of this order. Directed accordingly.

Further, the Respondent No. 1 is directed not to leave the country until the conclusion of the trial, and to appear before the Trial Court as and when called upon to do so. The parties are directed to cooperate with the trial without fail.

In case the trial is not concluded within the stipulated period as stated above, Respondent No. 1 would be at liberty to approach the Trial Court for reconsideration of his prayer to leave the country.

The ad-interim stay granted by this Court vide order dated 27.10.2020 stands vacated and the impugned order of the High Court is modified to the above extent. The present Special Leave Petition

is disposed of with the above observations.

Pending application filed in the matter also stands disposed of.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(RAJ RANI NEGI)
DY. REGISTRAR