R.O.C.No.17155-A/2016/F1 P.Dis.No. 93/2016

CIRCULAR

Sub: High Court, Madras – Civil/Criminal cases – Trial of cases in Subordinate Courts – Adjournment of cases on account of pendency of Appeals /Revisions /Petitions before High Court – Directions issued – Reg.

Ref: High Court's Circular in ROC.No.5141-A/2010/F1, dated 03.11.2010(P.Dis.No.48/2010).

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The practice being followed in Subordinate courts of adjourning cases pending in the trial stage, on representation of counsel that Appeal/Revision/Petition has been filed before the High Court, shall be avoided forthwith.

The Hon'ble High Court in the reference cited has issued Circular to all the Sessions Courts by enclosing a copy of the Order of the Hon'ble High Court, dated 22.09.2010 in Crl.R.C.No.1701/2005, to proceed with the trial unless the proceedings are specifically stayed by the order of the Hon'ble Court.

It is made clear that the Subordinate Courts shall strictly adhere to order XLI Rule 5 of Code of Civil Procedure, 1908 and shall proceed with trial, unless a stay has been granted or has any legal impediment and the trial should not be adjourned merely for the reason that some Petition/Appeal/Revision is pending before the High Court.

All the Subordinate Courts shall strictly adhere to the order of the Hon'ble High Court dated 22.09.2010 in Crl.R.C.No.1701/2005 and shall proceed with trial unless the proceedings are specifically stayed by the orders of the Hon'ble High Court.

The above instructions shall be followed scrupulously without any deviation.

HIGH COURT, MADRAS
DATED: 08.03.2016

Sd/- P.KALAIYARASAN
REGISTRAR GENERAL

//True Copy/Forwarded/By Order//

Assistant Registrar(Rules)

To

1. All the Principal District and Sessions Judges }{With directions to
2. The Principal Judge, City Civil Court, Chennai. }{bring contents of
3. The Chief Judge, Court of Small Causes, Chennai. }{this circular to
4. The Chief Judge, Puducherry. }{the notice of all
5. The District Judge, The Nilgiris at Udhagamandalam }{the Judicial
6. The Chief Metropolitan Magistrate, Egmore,Chennai. }{Officers working
7. All the Chief Judicial Magistrates }{under their
}{ control.

ENDT.No.1943/JUD/CJ/J5/2016 Dt.10.03.2016 : COPY COMMUNICATED TO THE ALL JUDICIAL OFFICERS IN THE UNION TERRITORY OF PUDUCHERRY.

(C.K. KARTHIKEYAN)
CHIEF JUDGE
PUDUCHERRY

In the High Court of Judicature at Madras

Dated : 22.09.2010

Coram :

The Honourable Mr.Justice T.SUDANTHIRAM

Crl.R.C.No.1701 of 2005

Sivakami .. Petitioner/Accused 2

-vs-

State, rep. By Inspector of
Police, Pellipalayam.
(Crime No.1019 of 2004) .. Respondent/Complainant

Revision against the order dated 25.11.2005 made in Crl.M.P.No.152 of 2005 in S.C.No.137 of 2005 on the file of Additional Sessions Judge, Fast Track Court, Namakkal.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.S.Senthil Murugan
G.A. (Crl. Side)

O R D E R

The revision petitioner herein is the second accused in S.C.No.137 of 2005 on the file of Additional Sessions Judge, Fast Track Court, Namakkal and she filed an application before the trial Court under Section 227 Cr.P.C. seeking discharge. The said application was dismissed by the learned Judge. Challenging the said order, the revision petitioner had preferred this revision before this Court.

2.Mr.Sankarasubbu, learned counsel for the petitioner submitted that the petitioner is not pressing this revision petition and seeks permission of this Court to withdraw this revision petition. He has also made an endorsement to that effect in the bundle.

3.The occurrence in this case relates to the year 2004 and the sessions case relates to the year 2005. This revision petition was presented by the petitioner before this Court and it came up in the list on 03.01.2006. It appears from the Court docket order sheet that the revision has not been admitted so far and on 18.01.2006, the learned Government Advocate took notice for the respondent and thereafter, the revision stood adjourned. It appears, though the revision petition was not admitted and no order of stay of sessions court proceedings has been passed, the

trial Court has not proceeded with the trial. The learned Government Advocate also submitted that the case was adjourned periodically for the only reason that the revision petition is pending before this Court. He would further submit that about seven months back, the fourth accused absented himself and a non-bailable warrant has been issued and about three months back, accused 1, 10, 11 and 16 also absented from appearing before the Court and non-bailable warrants have been issued and the warrants are still pending against those accused.

4.This Court feels that the trial had been pending simply before the trial Court for years together. Neither the investigating officer nor the prosecutor took steps either to bring this revision for disposal or pleaded before the trial Court to proceed with the trial. In fact, a Special Public Prosecutor has been appointed to appear in this case before the trial Court. It appears, the idea and purpose of the Fast Track Court itself has been defeated.

5.This Court now makes it clear that all the Sessions Courts should proceed with the sessions trial and it should not be adjourned merely for the reason that some petition is pending before the High Court, unless the proceedings are specifically stayed by the order of the High Court. All the Sessions Judges are directed hereafter to follow this strictly.

6.This revision case is dismissed as withdrawn. The Investigating Officer is directed to execute the non-bailable warrants issued against the accused without any further delay and if the accused are secured, the learned Sessions Judge is directed to proceed with the trial on day-to-day basis expeditiously.

sra

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

To

1.The Additional & Sessions Judge,
Fast Track Court, Namakkal.

2.The Inspector of Police,
Pellipalayam, Namakkal District.

3.The Section Officer,
AD Section, High Court,
Madras.
(to communicate this order
to all the Sessions Courts
and Additional Sessions Courts
throughout Tamilnadu)

4.The Public Prosecutor,
High Court, Madras

JSV(CO)
SR/13.10.2010

Crl.R.C.No.1701 of 2005