

**Petitioner Vs. Respondent**

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**Court :** Chennai

**Decided On :** Apr-29-2016

**Judge :** M. Venugopal

**Appeal No. :** Criminal Revision Case No. 725 of 2016

**Appellant :** Petitioner

**Respondent :** Respondent

**Judgement :**

**M. Venugopal, J.**

1. Heard the Learned Counsel for the Petitioner/A.4.

2. It appears that the Revision Petitioner/A.4 has filed the instant Criminal Revision Petition, as against 'A Diary' Order, dated 1/4/2016, which runs as under:-

A.1 to A.3, A.5 to A.7 present. NBWs against A.4 and A.5 ordered to be issued on 27/1/2016. On 29/1/2016 NBW ordered against A.5 is recalled. A.4 has obtained Anticipatory bail from the Honourable High Court as early as on 10/2/2016 and the said order copy was received by this Court on 1/3/2016. After a month time, he is yet to appear before this Court, vide Crl.O.P.No.2569 of 2016. Thereafter, another Order pertaining A.4 is received to the effect that two months extension of time was granted order date 14/3/2016 the said Order is received on 30/3/2016. Today,

it is represented that he (A.4) has against filed another petition for further extension of time. Hence in the stated circumstances and this case is more than 10 years old case against A.4 is ordered to be split up. Passed Over. A.1 absent. A.2, A.3, A.5 to A.7 present. Passed over. A.1 to A.3, A.5 to A.7 present. Perused. Case opened by the prosecution side. Charges framed under Section 384, 384 r/w. 34, 376, 354, 509, 294 (b), 420, 420 r/w. 34, 342, 417, 452, 427, 352, 448, 363, 392, 392 r/w. 34, 406, 406 r/w. 34, 343, 506 II, 506 II r/w. 109, 364 A, 364 A r/w. 109 IPC and Sec.4 of TNWH Act against A.1 to A.3, A.5 to A.7 and explained to the accused. Denied. Issue fresh summons to witness No.1. Call on 6/4/2016.

3. The core contention advanced on behalf of the Revision Petitioner/A.4 before this Court is that the impugned 'A Diary' Order dated 1/4/2016 inter alia maintaining that 'this case is more than 10 years old case, against A.4 is ordered to be split up etc., is not a correct one in the eye of Law because of the simple reason that ordering of splitting up of the case against the Petitioner/A.4 is in negation to Rule 17 of the Tamil Nadu Criminal Rules of Practice.

4. The Learned Counsel appearing for the Petitioner/A.4 submits that the Petitioner is a chronically bed ridden patient and only because of the same, he was not in a position, to appear before the trial Court and to treat the Petitioner as an absconding accused, as held by the trial Court, in the impugned order, dated 1/4/2016, is not quite in tune with the well established principles of Law.

5. Per contra, it is the submission of the Learned Government Advocate (Criminal Side) that the Petitioner/A.4 had originally obtained anticipatory bail before this Court and he had not surrendered and sought for extension of time and in spite of the same, the Petitioner/A.4 is deliberately not appearing before the trial Court and under such circumstance, the trial Court is well within its ambit to split up the case against the Petitioner/A.4 and viewed in that perspective, the impugned order, passed by the trial Court is a just, valid and legally tenable one.

6. The Learned Counsel appearing for the Petitioner draws the attention of this Court to the fact that this Court, while ordering the anticipatory bail application in Crl.O.P.No.23113 of 2015 on 14/9/2015 had directed the Petitioner/A.4 to appear before the trial Court, on all hearing dates in future regularly till the completion of

trial except on those days, by filing a petition under Section 317 of the Code of Criminal Procedure by assigning valid reasons. As such, the Petitioner/A.4 has not adhered to the tenor and spirit of the order passed by this Court in Criminal Original Petition No.23113 of 2015, dated 14/9/2015.

7. Since the Petitioner/A.4 has raised a question whether the trial Court is correct in ordering the splitting up of the case against A.4, when A.4 in reality has not absconded and only is bed ridden, requires a detailed consideration. For that purpose, this Court grants time to the Respondent/Public Prosecutor to file a counter, setting out the legal position, in this regard. It is open to the Petitioner/A.4 to address this Court soon after filing of the counter by the Respondent/Complainant.

8. For filing counter by the Respondent/Police, time is granted till 1/6/2016.

9. Registry is directed to list the matter on 2/6/2016.

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