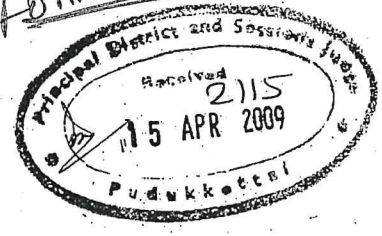


43

Formal arrest



ROC.NO. 665A/09/F/MB

CIRCULAR

Sub : Madurai Bench of Madras High Court- Directions of the Hon'ble High Court in CrI.O.P (MD) No. 1178 of 2009- Ordered to be circulated- Communicated:

Ref: Order dated 24.03.09 in CrI.O.P(MD) No. 1178 of 2009 by the Hon'ble High Court.

21/4/09

A copy of the order dated 24.03.09 passed by the Hon'ble Madurai Bench of Madras High Court, in CrI.O.P(MD) No. 1178 of 2009, is communicated and the same is to be circulated to all the Judicial Magistrates in the respective units concerned, for strict compliance and for necessary action.

The receipt of this-circular is to be acknowledged at once.

Madurai Bench of Madras High Court, Madurai
09:04:09

Sd/- R.Mohandoss
Registrar (Judl.)

True copy / Forwarded / By order

Bomanian
Assistant Registrar (Admn.)
RR

- To
- 1.All the Principal District Judges,
 - 2.The Chief Judge, Puducherry, Union Territory,

Copy to

- 1.The Deputy Registrar (Judl.), Madurai Bench of Madras High Court, Madurai.
2. The Asst. Registrar (CrI Sec), Madurai Bench of Madras High Court, Madurai.
3. The Section Officer, 'F' Section, High Court of Judicature, Madras-104.



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Fourth day of March Two Thousand

PRESENT

THE HON. B.L. JUDGE, Justice V. PERIYA KARUPPIAH

CRIMINAL PETITION No. 1178 of 2009

2115
11.5 APR. 2009
MADRAS HIGH COURT

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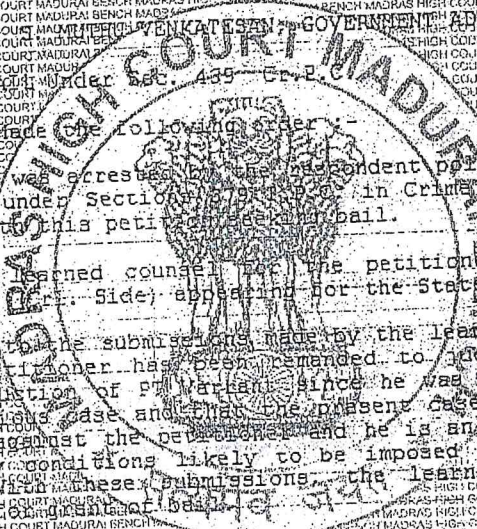
RESPONDENT

STATE

RESPONDENT

STATE

RESPONDENT



the following order:-
was arrested by the independent police officer
under Section 439 Cr.P. in Crime No. 2009
to this petition for bail.

learned counsel for the petitioner
(Petitioner's Side) appearing for the State

the submissions made by the learned counsel
for the petitioner has been perused and it is
found that the petitioner is a person of good
reputation and he is an innocent person.

in the present case and that the present case
is a bona fide case and he is an innocent person
and he is a person of good reputation.

with these submissions, the learned counsel
for the petitioner has submitted that the
petitioner should be granted bail.

the learned Advocate (Govt. Side) has
submitted that the petitioner is a person of
good reputation and he is an innocent person.

and he is a person of good reputation
and he is an innocent person.

the learned Advocate (Govt. Side) has
submitted that the petitioner is a person of
good reputation and he is an innocent person.

and he is a person of good reputation
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and he is a person of good reputation
and he is an innocent person.

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submitted that the petitioner is a person of
good reputation and he is an innocent person.

respondent police. PT Warrant was issued and on the issuance of the said PT Warrant on 05.03.2009, the petitioner was produced and remanded on 06.03.2009. The said report of the Magistrate does not disclose that a formal arrest was made in the above said crime prior to the remand order passed by the said Magistrate.

6. The learned counsel for the petitioner had also produced the original copy of the bench order of the arrest memo issued against the accused in the said crime. On verification of the said bench order, it was found that the formal arrest was made by the respondent police on 05.03.2009 at 12.30 hours. Therefore, this court could not say that a formal arrest was made in the prison and the report of the Magistrate stating that there was no arrest made against the accused is incorrect. The bench order issued against the accused is repeated judgments and has led to a situation that the accused is in judicial custody. The bench order issued against the accused is not a bench order. It is a bench order issued by the court on 21.03.2009. The bench order issued against the accused is not a bench order. It is a bench order issued by the court on 21.03.2009.

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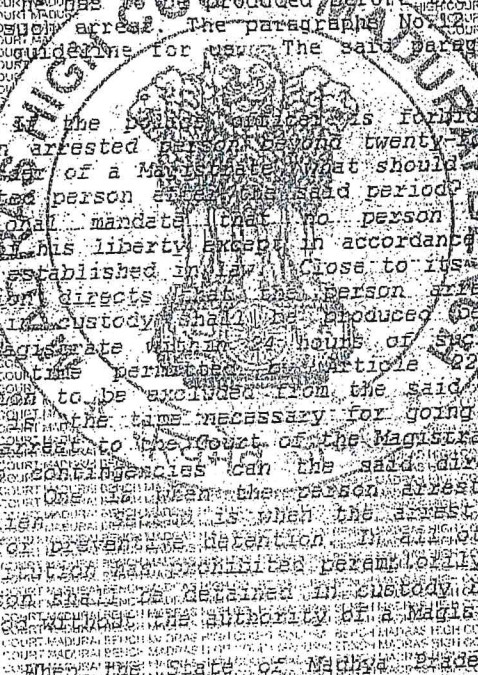
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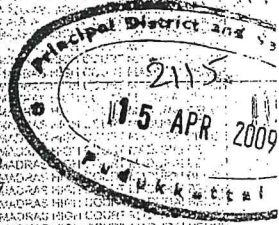
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14. Of course the stand of the State of Madhya Pradesh is that the appellant continues to be under detention pursuant to his arrest in the Rajasthan case. Excuses were advanced by the respondent State for their inability to produce the accused before the nearest Magistrate within the required period. But no such excuse has been recognized by law. Hence the respondent's plea for the Magistrate's detention of the accused beyond 24 hours. That arrest has now become of use.



8. In the above said judgment, it has been categorically laid down that even though the accused was arrested while he was in detention in another case and was not produced before the Magistrate within 24 hours of the time of arrest and the said arrest has become of use in other words it would not only have to show that when in the case of formal arrest, where the accused was in judicial custody in some other case, it ought to have been produced before the Magistrate within 24 hours of the time of such formal arrest, otherwise the demand would become of use. In this case, also, the accused was formally arrested on 28-01-2009 at 2:30 hours. The demand was produced before the Magistrate on 06-02-2009. It is clear that the demand was made more than 7 days from the time of arrest.

9. The respondent has found in several cases that the Magistrate who are passing the orders of demand have not produced the accused before the Magistrate at the time of issuing demand. Therefore, it is necessary for this Court to direct the judicial Magistrate to produce the accused before the Magistrate within 24 hours of the time of arrest. It is also directed that the demand for the accused shall be produced before the Magistrate for the purpose of a subsequent case where formal arrest has been shown to be of use while the accused was in judicial custody or serving the sentence in some other case.

10. In the present case, the respondent police also has to produce the accused before the Magistrate within 24 hours of the time of arrest. It is also directed that the demand for the accused shall be produced before the Magistrate for the purpose of a subsequent case where formal arrest has been shown to be of use while the accused was in judicial custody or serving the sentence in some other case. It is also directed that the demand for the accused shall be produced before the Magistrate for the purpose of a subsequent case where formal arrest has been shown to be of use while the accused was in judicial custody or serving the sentence in some other case.

11. Accordingly, the petition is directed to be rejected.

on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Kumbakonam, and on further condition that the said sureties shall appear before the respondent police every day at 10.30 a.m. and 05.30 p.m. on all further orders.

sd/
24/03/2009

Sub-Assistant Registrar (S)

JUDICIAL MAGISTRATE, KUMBAKONAM

2. TO THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR AT KUMBAKONAM

THE JUDICIAL MAGISTRATE, THANJAVUR AT KUMBAKONAM

THE SUPERINTENDENT, CENTRAL PRISON, TRICHY

THE JUDICIAL MAGISTRATE, THANJAVUR DISTRICT

SECTION

PR No. 5155

ORDER

CP (MD) No. 1178

Date: 24/03/2009

Principal District Court, Pudukkottai

IR No. 2115/09, Dt. 16-4-2009

Copy of circular with order communicated to the (1) Addl. District Judge/Presiding Officer, Spl. Court for E.C.Act Cases, Pudukkottai, (2) The Additional District Judge, Fast Track Court, Pudukkottai, (3) The Assistant Sessions Judge, Pudukkottai, (4) The Judicial Magistrates/Pudukkottai/Arantangi/Alangudi and (5) The District Munsiff cum Judl. Magistrates, Thirumayam/Keeranur for information strict compliance and for necessary action. copy to translator of this court.

Principal District Judge
Pudukkottai

Jan/Alangudi

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D.No. 2385/09
17.4.09