

Suo Motu W.P.(MD)No.6126 of 2020

**P.N.PRAKASH, J.
AND
B.PUGALENDHI, J.**

ORDER

[Order of the Court was made by **P.N.PRAKASH, J.**]

On 01.06.2020, we passed the following order:

"On **30.04.2020**, this Court passed the following order:

"On **27.03.2020**, this Court passed the following order:

"There may have been many cases in the High Court as well as in the Subordinate Courts and Tribunals under the superintendence of the High Court with limited interim orders operating as on 20th March, 2020. There is every likelihood that some of these interim orders, that were not until further orders, may be expiring on 20th March, 2020 or even thereafter being limited in nature.

2 In the wake of the public announcement of the Government of India of complete lockdown in the entire nation, accessibility to Courts and Tribunals on account of

their extreme limited functioning have caused inconvenience to the litigants and the lawyers alike. Lawyers and litigants are not in a position to conveniently appear in their matters and with the complete lockdown announced with effect from the midnight of 24th / 25th March, 2020, it has become difficult for the citizens to approach the Courts of law to take recourse to legal remedies. Requests have been received on the judicial side for extension of interim orders that are expiring and also for extending the time period for vacating the premises in eviction matters. To ensure that citizens are not deprived of the fruits of the interim orders granted by the High Court, subordinate Courts or the Tribunals, as the case may be, on account of their inability in the present situation to approach the respective forums, it would be appropriate for the passing of a suitable judicial order in this regard. Therefore, the following directions are issued for the present:

1. In exercise of the powers under Art.226 and Art.227 of the Constitution of India read with Sec.482 and Sec.483 of CrPC, keeping in view the extraordinary situation which has arisen, it appears appropriate to undertake extraordinary remedies by issuing certain directions in order to ensure the smooth administration of justice and prevent any form of obstruction or miscarriage of justice.

- 2. All interim orders passed by the High Court at Madras – Madurai Bench that were subsisting as on 20th March, 2020, shall stand extended till 30th April, 2020, unless vacated or modified earlier or until further orders of the Court, unless specifically dealt with by any judicial order to the contrary.**
- 3. All orders of eviction, dispossession or demolition which have not been executed till date on the orders of the High Court, District Courts or the Civil Courts, shall remain in abeyance till 30th April, 2020 unless vacated or modified earlier by any judicial order passed by the appropriate forum by which it was issued.**
- 4. All orders passed by the Courts exercising criminal jurisdiction having granted bail, anticipatory bail or parole, etc., for a limited period which are likely to expire on or before 30th April, 2020, shall stand extended till 30th April, 2020, subject to any orders passed by the said forums even before the said expiry date or thereafter, to enable the respective Courts to deal with any abuse of the orders of the concerned party.**

5. The aforesaid directions may be subject to any orders to the contrary having been passed by the Supreme Court of India in any particular matter.
6. It can also be clarified that in case the extension of the interim orders causes undue hardship of any extreme nature to any of the parties to such proceedings or a matter of extreme urgency being indicated by the State or its authorities, they would be at liberty to seek appropriate relief as may be advised.
7. Such interim orders or directions, which are not of a limited duration, shall continue to operate and will remain unaffected.
8. General encroachment drives, State revenue recovery measures, proceedings relating to demolition and eviction and other actions that are likely to give rise to an immediate litigation in the High Court, may be kept temporarily in abeyance, subject to any measures for which advice may be sought from the learned Advocate General.
9. Since it is not possible to produce the remand prisoners for extension of remand either under Section 167 or Section 309 Cr.P.C. before various Courts in the State, either in person or via video conferencing, as that would require opening of the Courts and requisitioning of staff members, we direct

that all remands stand extended till 30.04.2020 without prejudice to the right of the prisoner to be released on bail in the meantime.”

2 The aforesaid order was passed on the expectation that the Novel COVID-19 would be brought under control. However, the situation is otherwise, as could be inferred from the notification issued in G.O. Ms. No.207 dated 24.04.2020 by the Revenue and Disaster Management (D.M.II) Department of the Government of Tamil Nadu, whereby, complete lock down was directed to be implemented in five Corporation areas in the State for a period of three / four days. That apart, medical reports show that COVID-19 cases are on the increase in some districts which is a cause of concern.

3 In the light of the precarious situation prevailing in the State, the interim order dated 27.03.2020 passed by this Court, which has been extracted above, stands extended till 01.06.2020. We reiterate that extension of remands is without prejudice to the rights of the prisoners to be released on bail in the meanwhile.

4 However, if the Criminal Courts in the subordinate judiciary resume functioning before 01.06.2020, notwithstanding the above direction, the Judges/Magistrates shall take appropriate steps to have the remands of the prisoners extended via video

conferencing and other permissible modes, including deputing a Magistrate to visit the prison for effecting extension of remand. While directing so, we are aware of the order passed by a learned Single Judge of this Court in Crl.O.P. No.29399 of 2014 [K. Anandan vs. K. Manoharan and another decided on 17.12.2014], wherein, the practice of deputing a Magistrate to visit the prisoner for remand extension even in exigencies was deprecated. However, be it noted that the said judgment was passed in a different context and hence, may not be applicable to the current perilous situation that obtains as a fallout of COVID-19 pandemic.

5 Further, Mr. A. Natarajan, learned Public Prosecutor for the State of Tamil Nadu, has addressed a communication dated 28.04.2020 to the Registrar (Judicial), Madurai Bench, wherein, he has stated that the Prohibition Enforcement Wing, Dindigul, has registered a case in Cr. No.44 of 2020 under Sections 4(1)(aaa) and 4(1-A) of the Tamil Nadu Prohibition Act and Sections 468 and 421, IPC and in the course of the investigation, had seized and produced before the Judicial Magistrate, Vedsandur, a huge consignment of spirit; the seized consignment was kept in the Property Room of the said Court; in view of the closure of all TASMAL outlets by the State Government in the war against COVID-19, some addicts, in desperation, had committed theft of spirit from

the Property Room of the Court for consumption; owing to this incident, a case in Cr. No.348 of 2020 under Sections 448, 454 and 380 IPC has been registered and four persons have been arrested; therefore, appropriate directions may please be issued to all the Courts in the State to dispose of such alcohol items to avert the possibility of such recurrence.

6 There appears to be substance and force in the request made by the learned Public Prosecutor. The Tamil Nadu Prohibition Act and the Rules framed thereunder do provide for expeditious disposal of alcohol items.

7 Therefore, we direct that it shall be open to all the Criminal Courts in the State to take immediate steps for disposal of alcohol items that are available in their Property Rooms, in the presence of the Investigation Officers, after preparing a panchanama/inventory and taking photographs/videos of destruction. If required, minimum samples may be retained depending upon the facts and circumstances of each case. Such a panchanama/inventory and photographs/videos certified by the Judge/Magistrate, shall be treated as evidence during trial in lieu of the actual contraband.

Post on 01.06.2020 (Monday)."

2. The Principal Bench has, in *Suo Motu W.P.No.7413 of 2020*, passed orders today (01.06.2020) extending the various interim orders till 30.06.2020, but

the orders relating to grant of parole/leave have been extended only till 08.06.2020. Following the same, we also direct the extension of various interim orders till 30.06.2020, except orders relating to grant of parole/leave, which are extended only till 08.06.2020.

3. As regards the extension of remand, we noticed that only in 9 Districts, Courts have become functional from 01.06.2020. Therefore, it will be very difficult for production of remand prisoners for extension of remand either under Section 167 or Section 309 Cr.P.C., before various Courts in the State, either in person or *via* video conferencing. Hence, we direct that all remands, both under Section 167 Cr.P.C. and Section 309 Cr.P.C., will stand extended till 30.06.2020 without prejudice to the right of the prisoner to be released on bail in the meanwhile.

4. As regards the extension of period of limitation, the same has been dealt by the Supreme Court in *Suo Motu W.P.(Civil) Nos.3 of 2020*, dated 23.03.2020 and we are bound by the orders passed by the Supreme Court in this regard from time to time.

5. It is hereby clarified that the Madurai Bench of the Madras High Court has not become completely

operational from 01.06.2020 and what has been permitted is staggered opening of the Court for physical appearance.

6. Call on 08.06.2020 for deciding the issue relating to extension of parole/leave of convicts."

2. On 08.06.2020, we passed the following order:

"In paragraph no.2 of the order dated 01.06.2020, we followed the even dated order passed by the Principal Seat in *Suo Motu W.P. No.7413 of 2020* by extending the parole/leave till 08.06.2020.

2. Today, the Principal Seat, in *Suo Motu W.P.No. 7413 of 2020*, has passed a detailed order, whereby, the Division Bench has recorded the undertaking given by the State that those who were sent on parole/leave will be quarantined on their return to the prisons and the Division Bench has declined extension of parole/leave.

3. Hence, we pass orders in the same lines and accordingly, we recall the relevant portion of the order dated 01.06.2020 passed by us with regard to parole/leave and those who are on parole/leave, and whose period has been extended by the order dated 01.06.2020 passed by this Court, shall surrender before the Superintendent of Prison concerned on or before 15.06.2020. The prisoners may be informed accordingly by the Superintendent of Prison concerned.

Post on 30.06.2020."

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3. Today, we find that the COVID19 pandemic situation has not reduced and is in fact increasing resulting in lock down announced by the State Government. Inter-state transport has not been resumed.

4. In such view of the matter, we direct the extension of various interim orders till **31.07.2020** subject to the right of the aggrieved party to move for vacating the order where it causes undue prejudice. We also direct that all remands both under Section 167 Cr.P.C. and Section 309 Cr.P.C., will stand extended till **31.07.2020** without prejudice to the right of the prisoner to be released on bail in the meanwhile.

5. Under Rule 6(1) of the Criminal Rules of Practice, 2019, first remand cannot be *via* video linkage, but by physical production of the accused before the Court. We observed certain difficulties in respect of production of accused involved in a case in Tamil Nadu/Puducherry, but, arrested outside the State, as inter-State transport has been suspended. The Kerala High Court has issued an administrative circular in this regard. Therefore, we hold that a person involved in an offence in Tamil Nadu/Puducherry, but arrested in a place outside Tamil Nadu/Puducherry, shall be physically produced before a Judicial/Metropolitan Magistrate in the place of his arrest, though the said Magistrate may not have

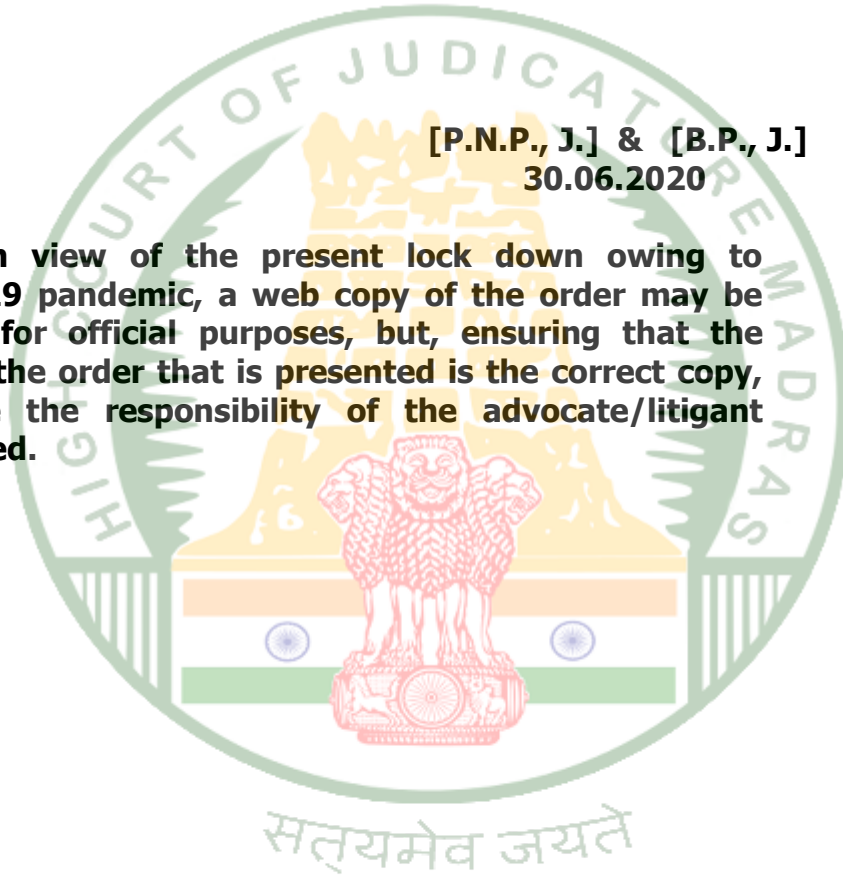
the jurisdiction and after he is remanded to judicial custody, such a person may be produced before the Jurisdictional Court in Tamil Nadu/Puducherry for the first time *via* video-conferencing.

6. Call on **31.07.2020**.

[P.N.P., J.] & [B.P., J.]
30.06.2020

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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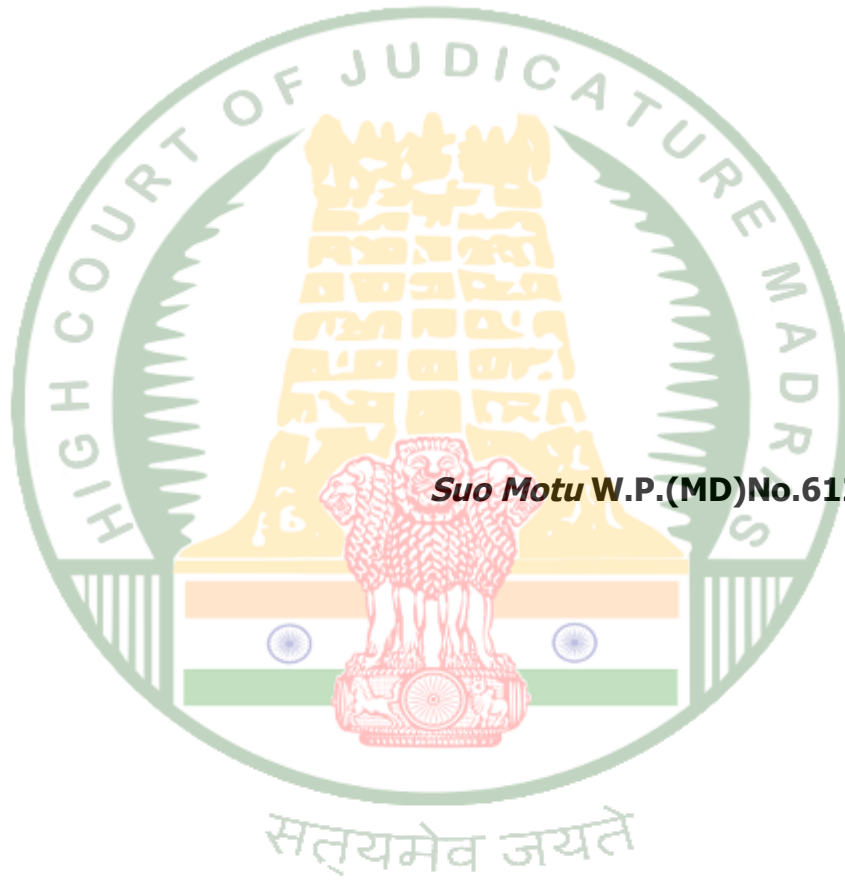


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