

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.23150 to 23155 of 2015
and M.P.Nos.1 to 1 of 2015

B.Soundari .. Petitioner in Crl.OP.23150, 23151,
23153/2015/Petitioner/Accused

V.C.Dinesh .. Petitioner in Crl.OP.23152, 23154,
23155 of 2015/Petitioner/Accused-1

Vs
Thangavelu .. Respondent in all Crl.OPs./
Respondent/Complainant

Prayer:- Criminal Original Petitions filed under Section 482 Cr.P.C. to set aside the impugned order dated 25.08.2015 in (i) Crl.M.P.Nos.7425 of 2015 in STC No.96 of 2012; (ii) 7433 of 2015 in STC No.112 of 2012; (iii) 7435 of 2015 in STC No.112 of 2012; (iv) 7429 of 2015 in STC No.111 of 2012; (v) 7431 of 2015 in STC No.111 of 2012 and (vi) 7427 of 2015 in STC No.96 of 2012 respectively pending trial on the file of the learned Judicial Magistrate (FTC-II), Erode.

For Petitioner in all Crl.O.P. : Mr.R.Sankarasubbu

C O M M O N O R D E R

It is seen that these petitioners are facing prosecution under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate, Fast Track Court-II, Erode and that they did not appear before the trial Court on 05.08.2015 and therefore, the trial Court issued Non-Bailable Warrant against them for securing their presence. The petitioners filed an application before the trial court for recalling the warrant without their physical presence before the Court, which was rightly dismissed by the trial Court on 25.08.2015, challenging which the petitioners are before this Court.

2. It is seen that there has been a direction in these cases for the Magistrate to dispose of the main cases before 08.08.2015 and that these petitioners by their non-appearance have been putting spokes in the wheel of justice, thereby the Magistrate was not able to adhere to the time frame stipulated for disposal of the cases.

3. Mr.R.Sankarasubbu, learned counsel for the petitioners submitted that Soundari [A2] was physically indisposed and therefore, she was not able to appear before the Court even for recalling the warrant. He also submitted that these petitioners are now ready to appear before the trial Court and pray for recalling the warrant. Though the order of the trial Court does not suffer from any infirmity, if this position is allowed to continue, it will only further prejudice the case of the complainant, inasmuch as the police will neither execute the warrant expeditiously nor will the trial Court be able to proceed further with the trial.

4. Under such circumstances, this Court is of the view that it will serve the interest of justice, if a direction is given to the petitioners to surrender before the trial Court within one week from the date of receipt of a copy of this order and furnish a bond under Section 88 Cr.P.C. each for a sum of Rs.25,000/- with two sureties to the satisfaction of the learned Judicial Magistrate, Fast Track Court-II, Erode undertaking to appear before the trial Court for all future hearings and cross examining the witnesses examined on behalf of the prosecution without adopting any dilatory tactics.

5. In the result, these petitions are allowed in the following terms:

- The petitioners shall surrender before the learned Judicial Magistrate, Fast Track Court-II, Erode within one week from the date of receipt of a copy of this order.
- The petitioners shall furnish a bond under Section 88 Cr.P.C., each for a sum of Rs.25,000/- with two sureties to the satisfaction of the learned Judicial Magistrate, Fast Track Court-II, Erode.
- The petitioners shall give an undertaking that they will appear before the trial Court for all future hearings and that they will not adopt any dilatory tactics for prolonging the trial.

Sd/-
Assistant Registrar
True Copy

Sub Assistant Registrar

gms

To

1.The Judicial Magistrate (FTC-II), Erode

6 cc to Mr. R.Sankarasubbu, Advocate Sr.No.50421 to 50426

Cr1.O.P.Nos.23150 to 23155 of 2015

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