

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No.3058 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Ram Oxygen Pvt. Ltd.,
rep. By Rajkumar

... Petitioner

Vs

Employees State Insurance Corporation
rep. By the Insurance Inspector,
Sub Regional Office, Coimbatore.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order dated 19.01.2015 passed by Judicial Magistrate No.VI, Coimbatore in Crl.M.P.No.268 of 2015 in C.C.No.904 of 2007.

For Petitioner : Mr.B.Raviraja

For Respondent : Mr.M.Maharaja,
Addl. Public Prosecutor

ORDER

This petition is filed to set aside the order dated 19.01.2015 in Crl.M.P.No.268 of 2015 in C.C.No.904 of 2007 on the file of Judicial Magistrate No.VI, Coimbatore.

2.It is submitted by the learned counsel for the petitioner that the said petition was filed to recall the warrant without the presence of the accused and the learned Magistrate dismissed the petition and therefore, the order may be set aside. He has also submitted that as per the judgment of this Court in Vallullaz Sherif Vs. State by Inspector of Police, All Women Police Station (2000 (3) MWN (Cr.) 28), the presence of the accused need not be insisted while recalling the non-bailable warrant issued against the accused.

3.It is seen from the order dated 19.01.2015 passed in Crl.M.P.No.268 of 2015 in C.C.No.904 of 2007 that the learned Magistrate refused to recall the non-bailable warrant on the ground

that the case is pending from 2007. As the prosecution was launched by the E.S.I. Inspector in contravention of the provisions of E.S.I. Act, the learned Magistrate need not have insisted the presence of the petitioner for recalling the warrant. Hence the order dated 19.01.2015 passed in Crl.M.P.No.268 of 2015 in C.C.No.904 of 2007 is set aside and the learned Magistrate is directed to consider the application filed by the petitioner for recalling the warrant in Crl.M.P.No.268 of 2015 in C.C.No.904 of 2007 without insisting the presence of the petitioner and pass orders on the same day in accordance with law. The Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mmi

To

- 1.The Insurance Inspector,
Employees State Insurance Corporation,
Sub Regional Office,
Coimbatore.
 - 2.The Judicial Magistrate No.VI,
Coimbatore.
 3. The Chief Judicial Magistrate, Coimbatore.
- + 1 cc to Mr.B. Raviraja, Advocate Sr.7825

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RV(CO)
Eu 2.03.15

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