

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.Nos.30146 to 30148 of 2015

Sri Hari Finance,  
rep. by its Partner M.Sivakumar

... Petitioner in  
Crl.O.P.No.30146/15/  
Defacto Complainant

Sri Hari Chits & Finance,  
rep. by its Partner T.S.Viswanathan

... Petitioner in  
Crl.O.P.No.30147/15/  
Defacto Complainant

Sri Bala Hari Finance,  
rep. by its Partner T.S.Viswanathan

... Petitioner in  
Crl.O.P.No.30148/15/  
Defacto Complainant

Vs.

The Inspector of Police,  
B.2 Vishnu Kanchi Police Station,  
Kancheepuram - 631 502.

... Respondent in  
all the three petitions

Criminal Original Petitions filed under Section 482 Cr.P.C. to direct the learned Judicial Magistrate No.I, Kancheepuram to issue a fresh warrant of arrest and not to destroy the records of C.C.Nos.268, 269 and 271 of 2006 respectively and also to set a time frame for the respondent to execute the warrant of arrest.

For Petitioners : M/s.Jayaraman and Associates,  
in all the three petitions.

For Respondent : Mr.C.Emalias,  
Addl.Public Prosecutor,  
in all the three petitions.

## COMMON ORDER

The present criminal original petitions have been filed seeking a direction to the learned Judicial Magistrate No.I, Kancheepuram to issue a fresh warrant of arrest in C.C.Nos.268, 269 and 271 of 2006 respectively and to direct the learned Magistrate not to destroy the records in C.C.Nos.268, 269 and 271 of 2006 respectively and also to set a time frame for the respondent to execute the warrant of arrest.

2. The petitioner lodged three private complaints as against one Johnson, son of Lasar before the learned Judicial Magistrate No.I, Kancheepuram for the alleged offence punishable under Section 138(b) of Negotiable Instruments Act and the same were numbered as C.C.Nos.268, 269 and 271 of 2006. After completion of trial in all the three cases, by judgments dated 13.3.2008, the said Johnson was convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo two years rigorous imprisonment in each case and to pay a fine of Rs.6,00,000/- each, in default, to undergo further period of three months simple imprisonment in each case. The said Johnson has not chosen to file any appeal against the conviction and sentence imposed by the learned Judicial Magistrate No.I, Kancheepuram and till date, he is actively engaged in the paddy business. Though the petitioner filed process applications several times, the respondent has not taken any effective steps to arrest the said Johnson and in turn, asked the petitioner to obtain fresh warrant of arrest from the learned Judicial Magistrate No.I, Kancheepuram. Hence, the petitioner approached the learned Judicial Magistrate No.I, Kancheepuram by filing fresh process applications for the execution of the sentence. But, the learned Magistrate returned his process applications stating that the process applications for issuance of warrant of arrest are not maintainable as the documents have to be destroyed since already seven years have lapsed from the date of judgment. However, the records pertaining to the said cases are very much available in the Court of learned Judicial Magistrate No.I, Kancheepuram. Hence, the petitioner has come forward with the present petitions seeking a direction to the learned Judicial Magistrate No.I, Kancheepuram to issue a fresh warrant of arrest in C.C.Nos.268, 269 and 271 of 2006 respectively and to direct the learned Magistrate not to destroy the records in C.C.Nos.268, 269 and 271 of 2006 respectively and also to set a time frame for the respondent to execute the warrant of arrest.

3. I have heard the learned Additional Public Prosecutor.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, in the interest of justice, this Court is constrained to pass the

following order:-

(i) The petitioner is directed to file fresh process application in all the three cases in C.C.Nos.268, 269 and 271 of 2006 before the learned Judicial Magistrate No.I, Kancheepuram, within a period of two weeks from the date of receipt of a copy of this order.

(ii) On filing such process applications in all the three cases, the learned Judicial Magistrate No.I, Kancheepuram, is directed to entertain the same and issue fresh warrant of arrest in all the three cases in C.C.Nos.268, 269 and 271 of 2006, if the records are available in the Court.

5. All the criminal original petitions are ordered accordingly.

Sd/-  
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sbi

To

- 1.The Judicial Magistrate No.I, Kancheepuram.
2. do thro the Chief Judicial Magistrate, Kanchipuram.
- 3.The Inspector of Police,  
B.2 Vishnu Kanchi Police Station,  
Kancheepuram - 631 502.
- 4.The Public Prosecutor, High Court, Madras.

1 cc to Mr. Jayaraman & Associates, Sr. 440/15.

KR/11/1/16

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30148 of 2015