

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Cr1.O.P.No7607 of 2016
and Cr1.M.P.No.4001 of 2016

R.Senthil Kumar

.. Petitioner

Vs.

State represented by
Inspector of Police,
CBCID (Metro Wing),
Vepery, Chennai.

.. Respondent

Prayer:-Criminal Original Petition is filed under Section 482 Cr.P.C., to transfer C.C.No.7447 of 2010 on the file of XI Metropolitan Magistrate, Saidapet to some other court which is having the same power to deal with the case.

For Petitioner : Mr.S.Rayhan

For Respondent : Mr.C.Emalias

Additional Public Prosecutor

ORDER

The petitioner has come forward with this petition under Section 482 of Code of Criminal Procedure, seeking for direction, directing the respondent to transfer the C.C.No.7447 of 2010 on the file of XI Metropolitan Magistrate, Saidapet to some other court.

2. The learned counsel for the petitioner submitted that the petitioner is facing criminal case before the learned XI Metropolitan Magistrate, Saidapet, Chennai and because of non-appearance of the petitioner, Non-Bailable warrant has been issued by the trial court. He further submitted that since the petitioner's leg got fracture, he could not appear before the Trial Court on that date. Hence he prays for transfer the case in C.C.No.7447 of 2010 from the learned XI Metropolitan Magistrate, Saidapet, Chennai to some other court.

3. At this juncture learned Additional Public Prosecutor, on instructions would submit that the petitioner is facing more than 18 cases and non-bailable warrant has been issued against

him. Then the petitioner filed a petition before this Court for anticipatory bail in CrI.O.P.No.30779 of 2015, wherein this Court directed the petitioner to surrender before the concerned Court. In pursuance to that, the petitioner surrendered before the concerned Court and filed an affidavit in which Non-Bailable warrant was recalled with a condition that the petitioner should appear before the Court on each and every hearing. The petitioner has also filed an undertaking affidavit that he will appear before the Court each and every hearing but on the very next hearing, he has not appeared. Further, the petitioner has not produced any medical records to show that his leg has got fractured on that day. Therefore, the Trial Court has issued non-bailable warrant against him. Hence he prays for dismissal of the petition.

4. Considered the rival submission made by both sides and perused the typed set of papers.

5. According to the learned additional Public Prosecutor, the petitioner is facing 18 cases in similar in nature. Non bailable warrant has been pending for one year. Then the petitioner filed a petition for anticipatory bail before this Court, wherein a direction has been given to the petitioner to surrender before the concerned court and file a petition to recall the non-bailable warrant. On the basis of undertaking given by the petitioner, Non-bailable warrant was recalled and the petitioner was directed to appear before the Court on each and every hearing. But in the next hearing itself, the petitioner had not appeared and he has not filed any application under Section 317 Cr.P.C.

6. In such circumstances, I am of the view that this petition has been filed only with a view to drag on the proceedings. So, there is no necessity to transfer the case in C.C.No.7447 of 2010 from the learned XI Metropolitan Magistrate, Saidapet, Chennai. Hence the Criminal Original Petition is dismissed with cost since it is only a sheer abuse of process of law. Therefore the petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the Tamil Nadu Legal Services Authority, High Court, Madras. Consequently, connected miscellaneous petition is closed.

cse

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police,
CBCID (Metro Wing),
Vepery, Chennai.

2.The XI Metropolitan Magistrate,
Saidapet.

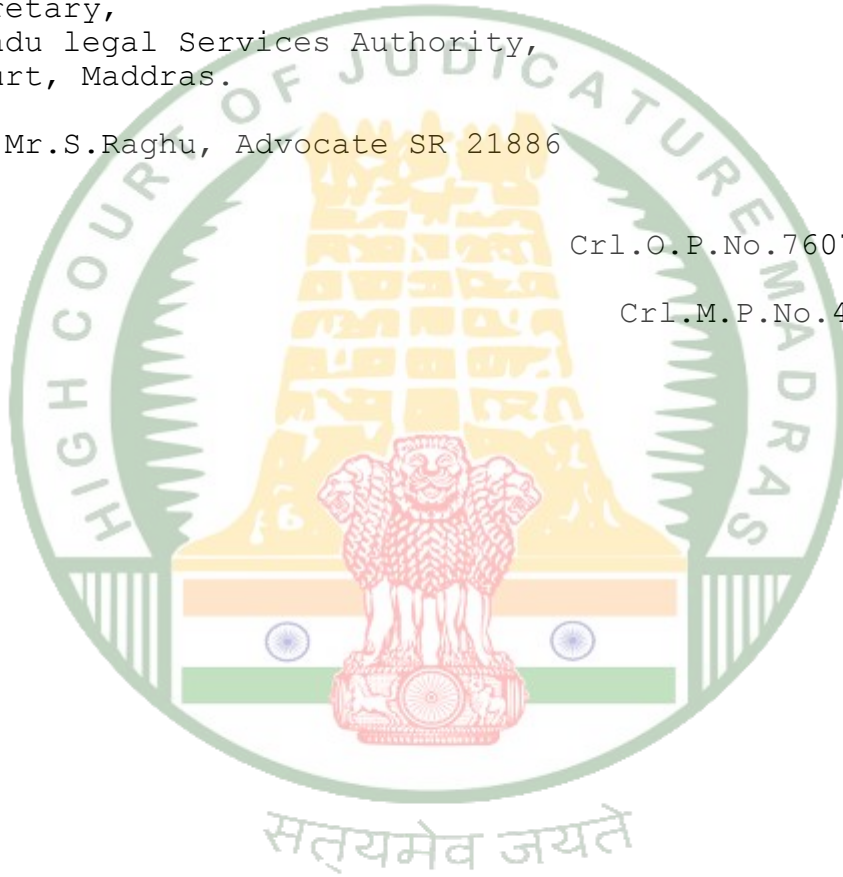
3.The Public Prosecutor,
High Court, Chennai.

4.The Secretary,
Tamil Nadu legal Services Authority,
High Court, Maddras.

+ 1 cc to Mr.S.Raghu, Advocate SR 21886

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