



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE B.GOKULDAS

Crl.R.C.(MD).No.47 of 2017

Ramesh

.. Revision Petitioner/Petitioner

Vs.

The State rep by
The Sub Inspector of Police,
Theppakkulam Police Station,
Madurai District.
(Cr.No.1603/1991)

.. Respondent/Respondent

Prayer:- Criminal Original Petition is filed under Section 397 r/w 401 of Cr.P.C. to call for the records relating to Cr.M.P.No.45 of 2017 in S.C.No.194 of 1993 pending on the file of the III Assistant Sessions Judge, Madurai and set aside the same and allow this revision petition.

For Petitioner : Mr.P.Andiraj

For Respondent : Mrs.S.Prabha

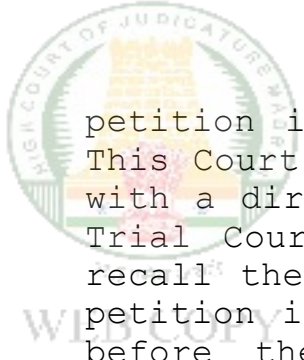
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition is filed to call for the records in Cr.M.P.No.45 of 2017 in S.C.No.194 of 1993 on the file of III Assistant Sessions Judge, Madurai, and set aside the same.

2. The case of the prosecution is that that the petitioner along with other accused robbed Rs.200/- from the defacto complainant and hence a case was registered in Crime No.1603 of 1991 on the file of the respondent police under Section 394 r/w 397 IPC. After the investigation, charge sheet has been filed and the same was taken on file and the said case has been committed to the III Assistant Sessions Judge, Madurai.

3. The learned counsel for the petitioner submitted that when the respondent police informed the petitioner that NBW was pending against him, the petitioner approached this Court by filing a



petition in CrI.O.P.(MD).No.22286 of 2016 for anticipatory bail. This Court, vide order order 25.11.2016, disposed of the said case with a direction to the petitioner to appear in person before the Trial Court and file a petition under Section 70(2) Cr.P.C. to recall the NBW. He further submitted that the petitioner filed a petition in Cr.M.P.No.45 of 2017, as per the order of this Court before the Trial Court. The Trial Court, vide order dated, 09.01.2017 dismissed the said Petition. Aggrieved against the said order, the petitioner is before us. The learned counsel further submitted that now the petitioner undertakes to appear before the Trial Court on all future hearing dates.

4. The learned Government Advocate (Criminal Side) submitted that since the petitioner did not appear before the Trial Court, NBW was issued against him. The case of the petitioner may be considered on condition that he should appear before the Trial Court on all future hearings.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) and also perused the typed set of papers.

6. Considering the facts and circumstances of the case and in view of the undertaking given by the petitioner, the criminal revision petition is allowed and the order passed by the learned III Additional Sessions Judge, Madurai, in Cr.M.P.No.45 of 2017 is set aside. The petitioner is directed to file a fresh petition to recall the NBW, within a period of one week from the date of receipt of a copy of this order. On such recall petition being filed by the petitioner, the learned III Additional Sessions Judge, Madurai, is directed to consider the same positively on conditions that the petitioner shall execute a bond for Rs.20,000/- (Rupees twenty thousand only) with two sureties for the likesum each to the satisfaction of the Trial Court and on undertaking that the petitioner shall present before the Trial Court on all future hearings of the case. Further, the Trial Court is directed to dispose of the case in S.C.No.194 of 1993, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To

1. The III Additional Sessions Judge,
Madurai.
2. The Sub Inspector of Police,
Theppakkulam Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.P.ANDIRAJ, ADVOCATE IN SR No. 2753

JIKR

TE/PM-AMI/SAR-II : 20/01/2017 : 3P/5C

Cr1.R.C.(MD) .No.47 of 2017
18.01.2017