

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P.No.10499 of 2018

P.Murugesan ... Petitioner/Accused
vs.

K.K.Thangavel ...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to set aside the docket order dated 05.03.2018 in CC.No.598 of 2003 on the file of Judicial Magistrate No.5 at Salem.

For petitioner : Mr.Myilsamy
For respondent : Mr.C.Raghavan,
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to set aside the docket order dated 05.03.2018 in CC.No.598 of 2003 on the file of the the Judicial Magistrate No.5 at Salem.

2. It is seen that the petitioner is facing a prosecution in CC.No.598 of 2003 before the Judicial Magistrate-V, Salem. The petitioner appeared on summons and thereafter, he absconded. Hence, Non-Bailable warrant was issued against him and he surrendered only in the year 2018 after a gap of 15 years. On account of his abscondence, the trial Court was not able to proceed with the trial further. When the petitioner surrendered, the trial Court recalled the Non bailable warrant on condition that he should deposit at least 1/4th of the cheque amount in order to show his bona fides. Challenging the said order, the petitioner is before this Court.

3. Mr.Myilsamy, the learned counsel for the petitioner submitted that there are several litigations between the parties and the complainant himself is not interested in prosecuting the case.

4. Be that as it may, the cheque amount is Rs.8,00,000/- and 1/4th of it is Rs.2,00,000/-. In the opinion of this Court, the condition imposed by the trial Court cannot said to be unconscionable, especially in the light of the fact that the petitioner was abscondence for 15 years. However, taking into consideration the submission made by the learned counsel that

the petitioner does not have means to deposit Rs. 2,00,000/-, the sum of Rs.2,00,000/- is reduced to Rs.1,00,000/-, which the petitioner shall deposit within a period of eight weeks from the date of receipt of a copy of this Order. On such deposit, the Judicial Magistrate No.V, Salem is directed to re-deposit the amount in any nationalised bank so that the same can be disbursed on the culmination of the trial depending of the outcome. The petitioner shall appear before the trial Court within a period of one week from the date of receipt of a copy of this Order. On his appearance, he shall be released on bail under Section 436 Cr.P.C. on executing a bond for Rs.10,000/- with two sureties to the said amount. Thereafter, if the petitioner absconds, a fresh FIR can be registered against him under Section 229-A IPC.

With the above direction, this petition is ordered.

Sd

ASSISTANT REGISTRAR (CS VI)

TRUE COPY

SUB ASSISTANT REGISTRAR

To

1. The Judicial Magistrate No.5
Salem.

2. The Government Advocate (Crl.Side)
High Court, Chennai.

1CC TO MR. K.MYILSAMY, ADVOCATE SR.NO. 24774

Crl.O.P.No.10499 of 2018

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16 APRIL 18

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