

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Second day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.3144 of 2018

IN CRL RC.277/2018

R.PREMALATHA,

[PETITIONER/ACCUSED]

Vs

M/S.A & G FACADES P LTD., [RESPONDENT]
NO.274, BURMA COLONY, 4TH MAIN ROAD,
PERUGUDI, CHENNAI - 36

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.277 of 2018 on the file of the High Court, the High Court will be pleased to dispense with the personal appearance of the petitioner before the Trial Court in C.C No.256 of 2017 on the file of the learned Judicial Magistrate Fast Track at Magistrate Level, Alandur, pending disposal of the Revision petition in Crl.R.C.277/2018.

Order : This petition coming on for orders upon perusing the petition and Memorandum of Grounds in Crl.RC.NO.277 of 2018 On the file of the High Court and upon hearing the arguments of MR.S.KUMARESAN, FOR M/S.RRN LEGAL, Advocate for the petitioner the court made the following order:-

The petitioner has filed a petition in C.M.P.No.2611 of 2017 under Section 205 Cr.P.C., before the learned Judicial Magistrate, Fast Track at Magistrate Level, Alandur seeking dispense with the personal appearance of the petitioner before the trial Court in C.C.No.256 of 2017 on the file of the learned Judicial Magistrate Fast Track Magisterial Level, Alandur, pending disposal of the revision petition in Criminal Revision Case. The said petition was allowed on condition that the petitioner should be present at the time of first questioning, 313 questioning, the day of judgment and on any other day during the trial if the Court finds it necessary and insists.

2. The petitioner has filed this revision praying to call for records in C.M.P.No.2611 of 2017 in C.C.No.256 of 2017 pending before the learned Judicial Magistrate Fast Track Magisterial Level and to set aside the order passed on 25.01.2018 in C.M.P.No.2611 of 2017 in C.C.No.256 of 2017 by the learned Judicial Magistrate Fast Track Magisterial Level, Alandur, to the extent of directing the presence of the petitioner for first questioning.

3. This petition has been filed to dispense with the personal appearance of the petitioner before the trial Court in C.C.No.256 of 2017 on the file of the learned Judicial Magistrate Fast Track Magisterial Level, Alandur, pending disposal of the revision petition in Criminal Revision Case.

4. The learned counsel for the petitioner produced the judgment passed by this Court in CrI.R.C.No.451 of 2016 dated 16.03.2018, which reads as follows:

7. It is relevant to note Section 205 Cr.P.C. which runs as follows:

"205. Magistrate may dispense with personal attendance of accused:

(1) Whenever a Magistrate issues a summons, he may, if he sees reason so to do, dispense with the personal attendance of the accused and permit him to appear by his pleader.

(2) But the Magistrate inquiring into or trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary, enforce such attendance in the manner herein before provided".

8. Section 205 Cr.P.C deals with the power of the Magistrate to grant leave of absence to the accused and to give leave to represent him by a learned counsel. This is dealt with under Section 205 (1) Cr.P.C. But, at the same time, once such a permission is granted, the accused cannot take it as a leave and licence to paralyze the Court proceedings. Discretion has been conferred upon the learned Magistrate under Section 205 (2) Cr.P.C to compel the presence of the accused.

9. Criminal Courts are infested with crowd. In the Magistrate Courts dealing with cases under Section 138 of the Negotiable Instruments Act, more particularly, in commercial towns, like Tirupur, the gathering of crowd will be more. It is a quite sickening sight. The teeming crowd in the Magistrate Courts affects the work/concentration of the Magistrates. Much of the time of the Magistrates has been eaten away by giving them dates. Actually, no specific work is turned out. In other words, it is not an 'effective hearing date'. The accused should not be put to unnecessary hardship, but at the same time, long rope should not be given to the accused to spoil any progress to be made in the case.

10. Now reverting to the facts and circumstances of the present case, I am of the opinion that the

conditions imposed in the impugned order seems to be extra conditions and they are unnecessary at the infancy of the case.

11. In view of the foregoing, the impugned order dated 18.01.2016 made in C.M.P.No.64 of 2015 in C.C.No.882 of 2015 by the learned Judicial Magistrate No.1, Tiruppur is modified as under:

(i) The counsel, who filed the petition and vakalath under Section 208 of Cr.P.C from the trial Court and he will participate in Section 251 Cr.P.C questioning; and

(ii) thereafter, for any effective hearing, if the attendance of the revision petitioner/accused is absolutely necessary, the learned Magistrate can enforce his attendance.

5. In view of the above judgment, the personal appearance of the petitioner before the Trial Court in C.C.No.256 of 2017 on the file of the learned Judicial Magistrate Fast Track Magisterial Level, Alandur, is dispensed with, pending disposal of this Criminal Revision Case.

-sd/-
02/03/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK MAGISTERIAL LEVEL, ALANDUR.

2 THE JUDICIAL MAGISTRATE,
NO.1, TIRUPPUR.

C.C. to M/S.RRN LEGAL Advocate on payment of necessary charges

Order

in
CRL MP.3144/2018

in
CRL RC.277/2018

Date :02/03/2018

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