

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2018

CORAM

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

Cr1.O.P. No.16163 of 2018

N.R.Senthilkumar

...Petitioner

vs.

P.T.Moideen @ Moidu

...Respondent

Criminal Original Petition filed under Section 482, Cr.P.C. seeking a direction to the Judicial Magistrate, Udhagamandalam, The Nilgiris to expedite the trial in S.T.C.No.848 of 2013 and complete the same within a stipulated time.

For petitioner : Mr.J.Bharathiraja

O R D E R

This Criminal Original Petition has been filed seeking a direction to the Judicial Magistrate, Udhagamandalam, The Nilgiris to expedite the trial in S.T.C.No.848 of 2013 and complete the same.

2. The petitioner has lodged a prosecution in S.T.C.No.848 of 2013 before the Judicial Magistrate, Udhagamandalam, The Nilgiris, for the offence under Section 138 of the Negotiable Instruments Act, 1881, against the respondent. While so, this petition has been filed for a direction to the trial Court to expeditiously complete the trial.

3. Heard the learned counsel for the petitioner/complainant, who submitted that the accused has examined his witnesses and the matter was posted for arguments. However, on a perusal of the daily status of the case, the Magistrate has noted as follows:-

"Date: 31.05.2018

Business : Complainant absent petition
filed and
allowed. Accused present. Process
not paid. However call on 04.06.2018.
Next purpose : Issue summons
Next Hearing Date : 04.06.2018.

Judicial Magistrate

Date : 04.06.2018

Business : Both absent. Petition filed and
allowed. Process Paid. Issue summon.
Call on 28.06.2018.

Next purpose : Issue summons

Next Hearing Date: 28.06.2018.

Judicial Magistrate"

4. If the complainant does not appear, the Magistrate can dismiss the complaint under Section 256 Cr.P.C., and if the accused does not appear, the Magistrate can issue warrant for securing him and also have a fresh FIR registered against him under Section 229-A IPC. The Magistrate need not issue summons each time when the complainant and the accused are not present. The Magistrate is not powerless. However, the Magistrate is directed to complete the trial in S.T.C.No.848 of 2013 within a period of three months from the date of receipt of a copy of this order, provided, there is no other legal impediment.

With the above direction, this petition is closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

mk

To

1. The Judicial Magistrate,
Udhagamandalam, The Nilgiris.
2. Do Thro The Chief Judicial Magistrate
Nilgiris.

+1 CC to Mr.J. Bharathiraja, Advocate sr 39803.

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SV(CO)
SP(04/07/2018)