

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.11.2018

PRONOUNCED ON : 15.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.25712 of 2018
and CrI.M.P.No.14696 of 2018

M.S.Pachaiyappan

... Petitioner

Vs.

Chandran

... Respondent

Prayer:- Petition filed under Section 482 Cr.P.C., to call for the records on the file of the learned Judicial Magistrate, Fast Track, (Magisterial Level), Alandur, Kanchipuram District made in CMP No.1365 of 2018 on the file of the learned Judicial Magistrate, Fast Track, (Magisterial Level), Alandur, Kanchipuram District and set aside the same for the purpose of a fair trial, equity and natural justice.

For Petitioner : Mr.S.Sasikumar

O R D E R

This petition has been filed to call for the records in CMP No.1365 of 2018 on the file of the Judicial Magistrate Court, Fast Track, (Magisterial Level), Alandur, Kanchipuram District and set aside the same.

2. For the sake of convenience, the petitioner and the respondent will be referred to as the accused and the complainant respectively.

3. The complainant filed a complaint before the Judicial Magistrate, Fast Track Court, Magisterial level, Alandur, against the accused for the offence under Section 138 of the Negotiable Instruments Act with a delay of 10 days, to condone which, he filed CMP No.1365 of 2018 under Section 142(b) of the Negotiable Instruments Act. On notice, the accused entered appearance, filed counter and contested the application. After hearing either side, the learned Magistrate passed the following order in CMP No.1365 of 2018 on 03.10.2018:

"Complainant present. Accused
present. Heard both sides. Records
perused. Petition allowed. For sworn,
call on 31.10.18).

Challenging the above order, the accused is before this Court.

4. The learned counsel for the accused submitted that the trial Court has allowed the condonation application without assigning any reasons and therefore, the order deserves to be set aside.

5. Initially, this Court was of the view that the Magistrate would have passed a detailed order and that the accused has obtained only the docket order for the purpose of filing this petition. However, report called for from the Magistrate shows that apart from the above order, no detailed order has been passed by the Magistrate. All judicial orders must be predicated on reasons, because, reason is the soul of an order. Only if reasons are given, will the superior Court be able to exercise powers of judicial review. In the opinion of this Court, no notice requires to be sent to the respondent/complainant in this petition, since this Court is setting aside the order in CMP No.1365 of 2018 and remanding the matter back to the trial Court for fresh disposal.

In the result, this petition is allowed and the order dated 10.10.2018 (docket order dated 03.10.2018) in CMP No.1365 of 2018 passed by the Judicial Magistrate, Fast Track Court, (Magisterial level), Alandur, is hereby set aside and the learned Magistrate is directed to pass orders afresh with reasons. The petitioner/accused is directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and execute a bond for Rs.10,000/- with two sureties to the satisfaction of the Judicial Magistrate, Fast Track Court, (Magisterial level), Alandur. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

gms
To

The Judicial Magistrate,
Fast Track Court, (Magisterial level),
Alandur

+lcc to Mr.S.Sasikumar, Advocate, S.R.No.77908

Crl.O.P.No.25712 of 2018

CS/19/11/2018