

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.27536, 27539 and 27792 of 2018
and
Crl.M.P.Nos.15892, 15895 and 16059 of 2018

Mani Chinthala ... Petitioner in Crl.O.P.No.27536 of 2018
R.Chinnasamy Naidu ... Petitioner in
Crl.O.P.Nos.27539 and 27792 of 2018

Vs.

M.Sathyanathan ... Respondent in both Crl.O.Ps

PRAYER in Crl.O.P.No.27536 of 2018: Criminal Original Petition filed under Section 482 of the Cr.P.C., to transfer the proceedings pending on the file of learned Judicial Magistrate, Fast Track (Magisterial Level), Alandur, in C.C.No.68 of 2017 to some other Court of the same sessions division.

PRAYER in Crl.O.P.No.27539 of 2018: Criminal Original Petition filed under Section 482 of the Cr.P.C., to transfer the proceedings pending on the file of learned Judicial Magistrate, Fast Track (Magisterial Level), Alandur, in C.C.No.67 of 2017 to some other Court of the same sessions division.

PRAYER in Crl.O.P.No.27992 of 2018: Original Petition filed under Section 482 of the Cr.P.C., set aside the order passed in crl.M.P.No.2619/2018 in CC.No.67/2017 order dated 31.10.2018 and re-call the Non-Bailable Warrant in C.C.No.67/2017 issued by learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur-

For Petitioner in all
Crl.O.Ps :Mr.S.Suresh

For Respondent in all
Crl.O.Ps :Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

Crl.O.P.Nos.27536 and 27539 of 2018 are filed seeking for a direction to transfer the proceedings in C.C.Nos.68 and 67 of 2017 respectively, pending before the Judicial Magistrate, Fast Track (Magestrial Level) Alandur.

2. Crl.O.P.No.27792 of 2018 has been filed by the petitioner in Crl.O.P.No.27539 of 2018, challenging the issuance of Non Bailable Warrant by the Court below.

3. The petitioner in Crl.O.P.No.27792 of 2018 is facing the trial before the Court below for an offences under Section 138 of Negotiable Instruments Act. Earlier the petitioner had filed a petition for the transfer of proceedings and subsequently the petition was withdrawn by the petitioner.

4. The learned counsel for the petitioners would submit that the petitioner in Crl.O.P.No.27792 of 2018 is willing to co-operate with the proceedings and his only grievance is that the proceedings are kept pending without any progress and the presence of the petitioner is insisted for every hearing and therefore, the petitioner is put to hardship. The learned counsel for the petitioner would further submit that the petitioner was not present before the Court, in view of personal inconvenience and the Court below has proceeded to issue Non Bailable Warrant against the petitioner. Therefore, the learned counsel would submit that the Court below ought not to have issued a Non Bailable Warrant, since the petitioner was represented by a counsel and the petition under Section 317 of Cr.P.C was also filed before the Court below to dispense with the appearance of the petitioner.

5. In the facts and circumstances of the case, this Court is not inclined to transfer the proceedings. The Criminal Original Petitions are disposed of with the following directions:

(a) The petitioner is directed to file a petition for re-call the Non Bailable Warrant before the Court below and the Court below shall re-call the Non Bailable Warrant by passing the order on the same day;

(b) The Court below shall dispose of C.C.No.67 of 2017 and C.C.No.68 of 2017, within a period of two months from the date of receipt of a copy of this order;

(c) It is made clear that the petitioner as well as the respondent shall Co-operate with the completion of the proceedings within the time stipulated by this Court. The witnesses shall be cross-examined on the same day when they are

examined in chief;

(d) The Court below is directed to decide the case on merits without referring the parties for any compromise. The Court below shall dispose of the case purely on merits without being influenced with the filing of the transfer petition by the petitioner before this Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

ssr/ub

To

1. The Judicial Magistrate,
Fast Track (Magisterial Level),
Alandur.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Suresh, Advocate SR.No.81972

CrI.O.P.Nos.27536, 27539 and 27792 of 2018

SSV(CO)
GMY(28/12/2018)

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