



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD).Nos.20167 & 19835 of 2018

A.M.Rajesh

Proprietor of Parvathy Transport Services

... Petitioner in both petitions

Vs.

M/s. Venus Auto Associates

represented by its Partner

P. Senthil Kumar ...Respondent in Crl.O.P.(MD).No.20167 of 2018

M/s.Moon Motor Traders,

Represented by its Partner,

P.Senthi Kumar ...Respondent in Crl.O.P.(MD).No.19835 of 2018

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Cr.P.C., to call for the records pertaining to the dismissal order passed in Miscellaneous petitions in C.M.P.No. 6871 & 6873 of 2018 in C.C.Nos.51 and 57 of 2012 by the learned Judicial Magistrate Fast Track Court (Magisterial level), Karur, dated 19.07.2018 and set aside the same.

For Petitioner :Mr.B.N.Raja Mohamed
(In both petitions)

COMMON ORDER

These petitions have been filed to call for the records pertaining to the dismissal order passed in Miscellaneous petition in C.M.P.No. 6871 & 6873 of 2018 in C.C.Nos.51 and 57 of 2012 by the learned Judicial Magistrate, Fast Track Court, (Magisterial level) Karur dated 19.07.2018 and set aside the same.

2.The learned counsel for the petitioner would submit that the petitioner is an accused in C.C.Nos.51 and 57 of 2018, pending on the file of the learned Judicial Magistrate, Fast Track Court, (Magistrate Level), Karur, for an offence under Sections 138 and 142 of Negotiable Instrument Act. The learned counsel would further submit that he was regularly appearing before the trial Court and due to his ill health, he was unable to appear on 02.07.2016. Due to this absence, the learned Magistrate had issued bailable warrant. The learned counsel would submit that though it is only a bailable warrant, he had filed a petition under Section 70(2) of Cr.P.C., to recall the warrant. The learned Magistrate has dismissed the petition on the ground that no Medical Certificate has been produced.



3.The learned counsel for the petitioner would rely on the judgments of this Court reported in (2007) 2 MLJ (Cr1) 1668 in Sirugudugu Naga Venkata Durgakumari and other Vs. Sirugudu Jhansilakshmi and (2018) 1 L.W.(Cr1.) 808 in P.Ranjankumar Vs. State rep.by the Inspector of Police, F-4, Thousand Lights Police Station, Chennai - 06.

4.However, without prejudice to his contention, the learned counsel would submit that the petitioner preferred a petition before the learned Magistrate stating that he would co-operate for the early disposal of the trial and hence, seeks direction from this Court. Considering the facts and circumstances of the case, this Court directs the learned Magistrate to consider the application for recall, on the same day of surrender. The petitioner shall surrender before the learned Judicial Magistrate within a period of two weeks from the date of receipt of a copy of this order. On such surrender, the learned Magistrate shall consider the application for recalling the bailable warrant and it is made clear that the petitioner shall co-operate for the trial. The learned Magistrate is directed to complete the trial within a period of three months from the date of his surrender.

5.With these observations, these Criminal Original Petitions are disposed of.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Judicial Magistrate,
Fast Track Court, (Magisterial level),
Karur.

2.The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

Cr1.O.P.(MD).Nos.20167 & 19835 of 2018
15.11.2018

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ES/PM/SAR 3/20.12.2018/2P/4C