

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 02.11.2018

Pronounced on : 10.01.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.1141 of 2010  
and M.P.No.1 of 2010

Tmt.P.Krishnaveni,  
W/o.P.R.Palanisamy. ....Petitioner/Accused

/Vs./

N.Manivannan,  
S/o.Narayanasamy. .... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.402 of 2009 on the file of the Judicial Magistrate Court No.VI at Coimbatore and quash the same.

For Petitioner : Mr.S.Senthil Kumar

For Respondent : No appearance

O R D E R

The above Criminal Original Petition has been filed on the primary contention that there is a 67 days delay in filing the complaint and the petitioner, who is an accused was not served with the notice and without any order of condonation of delay, the case has been taken on file and assigned C.C.No.402 of 2009 by the learned Judicial Magistrate No.VI, Coimbatore is in violation of law.

2.Further, it was submitted that the copy application petition filed by the petitioner for condonation of delay and its order was also not provided. The respondent/complainant was served with the notice on 26.05.2017 by one S.S.I. Namely Balasubramanian of D.1 Police Station. The acknowledgement is found. Despite the same, he has failed to appear before this Court. Hence, this Court has to call for the lower Court records.

3. On perusal of the lower Court records, it is found that a condonation delay petition has been filed on 06.02.2008 along with the affidavit. In that petition, no orders have been passed. Further, on perusal of the original complaint, it is found that the complaint has been filed on 06.02.2008. It has been re-presented on various dates and finally on 07.08.2009, there is a mention that complainant absent, no representation call on 09.10.2009. Thereafter, on 09.10.2009 sworn statement has been recorded and C.C.No.402 of 2009 has been assigned and the case has been posted to 04.12.2009 and summons were issued to the petitioner/accused. Further, it is found from the records that a letter in D.No.1499/2018 dated 30.09.2018 of the learned Judicial Magistrate No.VI, Coimbatore wherein it has been stated that as per the orders of the Chief Judicial Magistrate, in R.No.4875 of 2011 dated 12.08.2011, C.C.No.402 of 2009 has been transferred to the file of the Judicial Magistrate [Fast Track Court at Magisterial Level No.II], Coimbatore and assigned as C.C.No.26 of 2011.

4. It is also found that the respondent/complainant has filed a petition under Section 257 of the Code of Criminal Procedure in C.M.P.No.118 of 2011 to withdraw the above case for the reason "Original Cheque was misplaced and could not trace it to be presented before this Court". Considering the same, the Judicial Magistrate [Fast Track Court at Magisterial Level No.II] Coimbatore has passed an order granting permission to withdraw and close the case by order dated 13.09.2011.

5. This Court express its displeasure for the sorry state of affairs, neither the counsel for petitioner nor the Courts below when the records were called for have informed about the withdrawal and closure of the complaint vide order dated 13.09.2011. In failure of informing about the withdrawal of the case in the Lower Court, this Court had been burdened by unnecessarily keeping this Criminal Original Petition pending for such long years wasting the precious time of this Court.

6. In view of the above, nothing survives in the above Criminal Original Petition and hence, this Criminal Original Petition is closed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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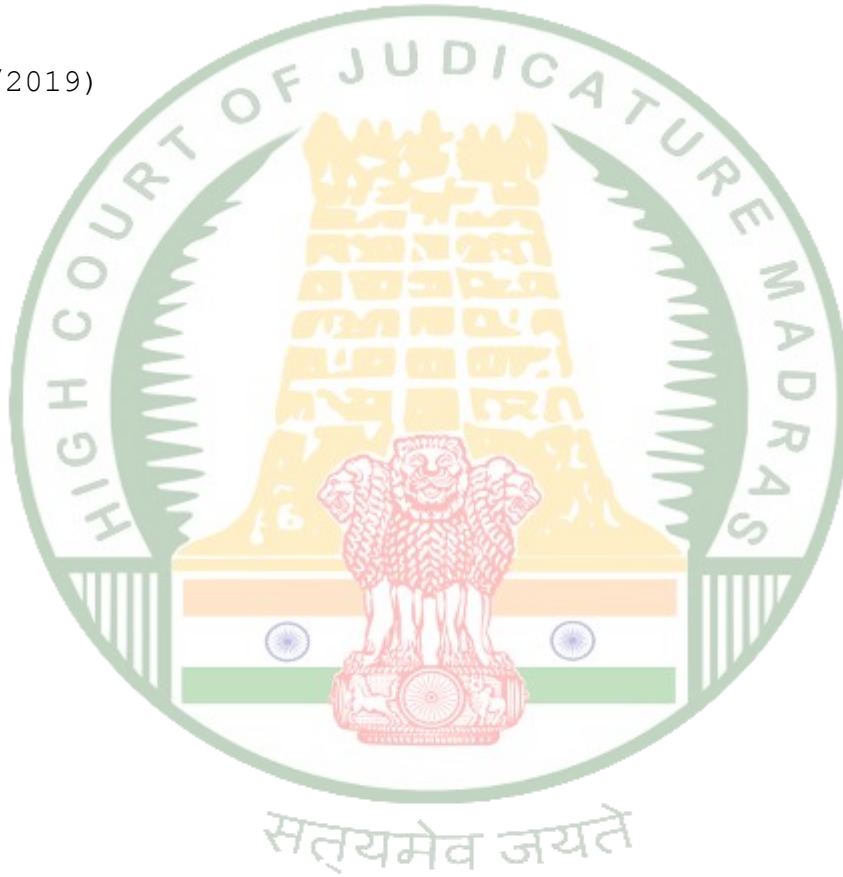
To

1.The Judicial Magistrate No.VI,  
Coimbatore.

2.The Judicial Magistrate,  
(Fast Track Court at Magistrate Level No.II)  
Coimbatore.

CrI.O.P.No.1141 of 2010

MR (CO)  
GMY (19/02/2019)



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