

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.1090 of 2019

S.Vimal Kumar

... Petitioner

-Vs-

B.Gunasekaran

... Respondent

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to direct the learned Judicial Magistrate (Fast Track Court) Tiruchengodu, Namakkal District to accept the surrender of the petitioner and payment of the fine imposed in STC No.211 of 2016 and to suspend the sentence on presentation of a petition to that effect on the same day.

For Petitioner : Mr.K.Kannan

ORDER

This petition has been filed seeking for a direction to the learned Judicial Magistrate (Fast Track Court), Tiruchengodu, Namakkal District, to accept the surrender of the petitioner.

2. It is seen from records that the respondent has filed the complaint under Section 138 of Negotiable Instruments Act, 1881, against the petitioner in STC No.211 of 2016. The trial Court, by judgment, dated 16.12.2018, convicted the petitioner and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.5,000/- and in default, to undergo one month simple imprisonment. Since the petitioner was not present before the Court, the trial Court has issued a non-bailable warrant in order to secure the petitioner and make him serve the sentence.

3. This petition filed by the petitioner seeking for a direction to the trial Court to accept the surrender and he call the non-bailable warrant is not maintainable, in view of the fact that the trial Court cannot recall non-bailable warrant and it has to necessarily send the petitioner to jail to serve the sentence. Admittedly, the petitioner is yet to file an appeal against the judgment passed by the trial Court.

4. This Criminal Original Petition is dismissed by giving liberty to the petitioner to file an appeal against the judgment of the trial Court in STC No.211 of 2016 and seek for suspension of sentence before the Appellate Court.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssr/kal

To

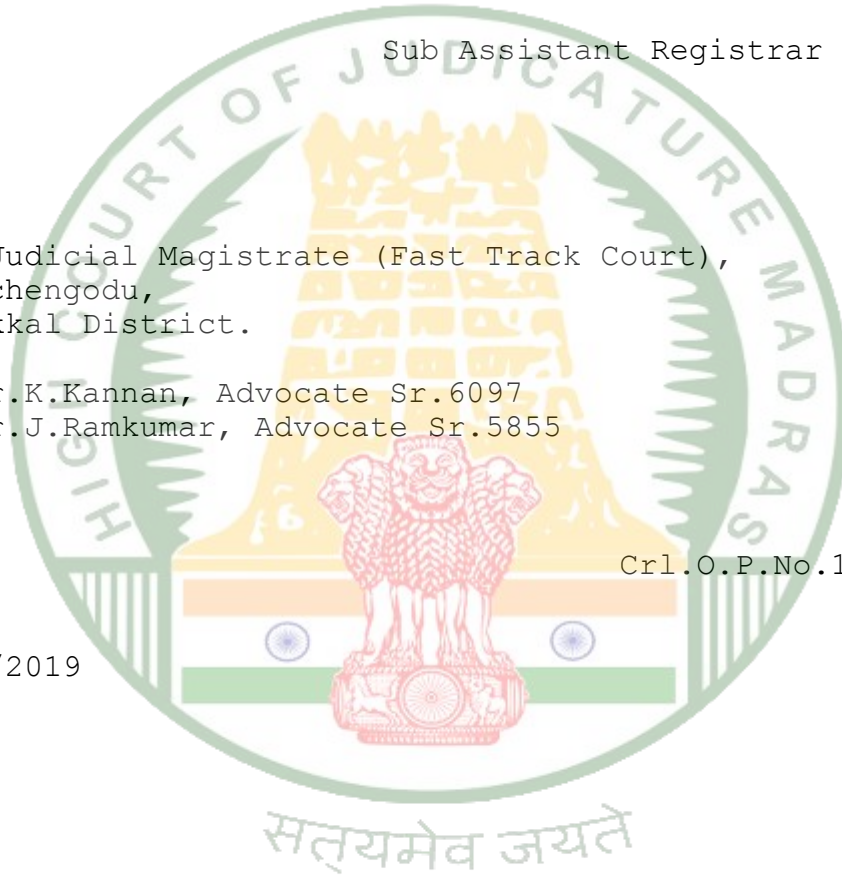
The Judicial Magistrate (Fast Track Court),
Tiruchengodu,
Namakkal District.

+1cc to Mr.K.Kannan, Advocate Sr.6097

+1cc to Mr.J.Ramkumar, Advocate Sr.5855

Cr1.O.P.No.1090 of 2019

srg 01/02/2019



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