

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.4948 of 2019

Shankar Shanmugam

.. Petitioner

Vs.

D. Yesudoss

..Respondent

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the docket order of dismissed for default dated 27.08.2018 in the unnumbered C.C on the file of Judicial Magistrate, Fast Track (Magistrate Level), Alandur and to restore and number the same.

For Petitioner : M/s.M.Vinoth Kumar
For Respondent :

O R D E R

The prayer in the present petition is to set aside the docket order of dismissed for default dated 27.08.2018 in the unnumbered C.C on the file of Judicial Magistrate, Fast Track (Magistrate Level), Alandur and to restore and number the same.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. On a perusal of the impugned order dated 01.10.2018, passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, it is seen that the learned Magistrate had dismissed the petition filed by the petitioner under Section 138 N.I Act stating "No representation for long time. Dismissed for default" without mentioning the dates on which the petitioner was absent. Further on perusal of the medical records produced by the petitioner, it could be seen that due to his medical illness, the petitioner could not present before the Court on the date of hearing. Therefore, the learned counsel for the petitioner has requested for restoration of the said petition.

4. In view of the facts and circumstances and on considering the submission made by the learned counsel for the petitioner, the impugned order dated 01.10.2018 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur is set aside. Consequently, the unnumbered petition filled by the petitioner is restored. The defacto complainant is directed to appear before the Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur on 06.03.2019 and on appearance of the petitioner, the learned Magistrate is directed to take sworn statement from the petitioner and proceed further.

5. It is made clear that, if the petitioner failed to appear before the learned Magistrate on the said date, the order of this Court shall stand automatically cancelled without any reference to this Court.

With the above directions, the Criminal Original Petition stands allowed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to M/s.M.Vinoth Kumar, Advocate, S.R.No.17791

सत्यमेव जयते

CRL.O.P.No.4948 of 2019

CS/27/02/2019

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