

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15180 of 2019

and

Crl.M.P.No.7445 and 7447 of 2019

1.R.Krishnamurthy

2.R.Lakshmipathy

... Petitioners

Vs.

Muthamizh Mudhalvan

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in Crl.M.P.No.4063 of 2019 in C.C.No.273 of 2006 and may set aside the Order dated 10.06.2019 passed in Crl.M.P.No.4063 of 2019 in C.C.No.273 of 2006 pending on the file of Judicial Magistrate, Krishnagiri.

For Petitioners : Mr.I.Subramanian, Senior Counsel
for M/s.S.Elambharathi

O R D E R

This petition has been filed challenging the order passed by the Court below in Crl.M.P.No.4063 of 2019 wherein the Non-Bailable Warrant issued against the petitioners was re-called by imposing certain conditions.

2.Mr.I.Subramanian, learned Senior Counsel appearing on behalf of the petitioners submitted that the Court below did not take into consideration the age of the petitioners, who are aged about 87 and 85 years respectively. The learned Senior Counsel submitted that the Court below ought to have taken into consideration the age of the petitioners before imposing any conditions in this case.

3.This Court has carefully considered the submissions made by the learned counsel appearing for the petitioners and also materials available on record. Since this is a matter between the Court and the petitioners, notice need not be ordered to the respondent.

4. In the facts and circumstances, the Court below ought not to have insisted for the personal appearance of the petitioners and could have dispensed with their appearance and permitted them to be represented by a counsel. Instead the Court has to proceeded to impose condition to the effect that the petitioners will have to appear before the Court on all future hearings, failing which the re-call order shall stand automatically dismissed.

5. The order passed by the Court below dated 10.06.2019 is modified to the effect that the Non-bailable warrant issued against the petitioners is re-called and they shall be represented by a counsel before the Court below. The learned counsel representing the petitioner shall cross examine the witnesses on the same day they are examined in chief and shall not take any adjournments and further delay of the case. Even at the time of questioning under Section 313 of Cr.P.C., the same can be done without the physical presence of the petitioners in accordance with the guidelines given by the Hon'ble Supreme Court in Keya Mukherjee v. Magma Leasing Limited and Another reported in 2008 2 MLJ (Cri) 654. The Court below shall complete the proceedings in C.C.No.273 of 2006 within a period of two months from the date of receipt of the copy of this order. The petitioners shall appear before the Court below at the time of final judgment.

6. This Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

vs

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Krishnagiri.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.S.Elambharathi, Advocate, S.R.No.11581

CrI.O.P.No.15180 of 2019 and
CrI.M.P.No.7445 and 7447 of 2019

SVI (CO)
SSM(14/06/2019)