

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.16054 of 2019

A.K.Shamsudeen

.. Petitioner

Vs.

State by

The Inspector of Police,
G3, Kilpauk Police Station,
Chennai.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. to set aside the Docket order passed in Crl.M.P.No.6489 of 2015 on the file of Chief Metropolitan Magistrate, Egmore, Chennai dated 13.02.2019.

For Petitioner : Mr.Thiruvengadam K.

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to set aside the order passed by the Court below in Crl.M.P.No.6489 of 2015 and the Court below has dismissed the petition for default.

2.It is seen from the records that the petitioner had faced 138 proceedings before the concerned Court at Mhow, Indoor, Madhya Pradesh. In the said proceedings a Non-Bailable Warrant was issued against the petitioner and at the time of execution of the Non-Bailable Warrant, the petitioner was produced before the Chief Metropolitan Magistrate Court, Egmore, Chennai and an interim bail was granted to the petitioner on condition that the petitioner should furnish a bank guarantee for a sum of Rs.3,00,000/-. The petitioner complied with the said condition.

3.Subsequently, the dispute got settled between the parties and the Judicial Magistrate Court, Mhow, Indoor, recorded the settlement and terminated the proceedings by order dated 19.01.2015 and also directed the security deposit to be refunded back to the petitioner.

4.The petitioner filed a petition before the Court below seeking for refund of the bank guarantee and the said petition was pending. Since the petitioner did not appear before the Court for several hearings, the petition itself came to be dismissed for default on 13.02.2019. Challenging the said order, the present petition has been filed before this Court.

5.The learned counsel for the petitioner submitted that the son of the petitioner expired and therefore the petitioner was not able to appear before the Court below and prosecute the petition.

6.Taking into consideration, the facts and circumstances of the case, the petition filed by the petitioner is allowed and there shall be a direction to the Court below to refund the bank guarantee furnished by one Mrs.Suraya Banu issued by the Chief Manager, Union Bank of India, Mylapore Branch dated 06.05.2010. The petitioner shall produce the copy of this order before the Court below and get the bank guarantee refund.

7.In the result, this Criminal Original Petition is allowed with the above direction.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vs
To

1.The Inspector of Police,
G3, Kilpauk Police Station,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

3.The Chief Metropolitan Magistrate, Egmore, Chennai

+1cc to Mr.Thiruvengadam K. , Advocate SR.No. 50931

CrI.O.P.No.16054 of 2019

A.SK(25/06/2019)