

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.22752 and 22757 of 2019
and Crl.M.P Nos.11834, 11835, 11839, 11840 of 2019

Madanan Pillai Sreedharan Pillai,
 S/o.Sreedharan Pillai,
 Employer / Contractor,
 North Chennai Thermal Power Project,
 BTG Packagar, Athipattu,
 Thiruvallur

... Petitioner in both Crl OPs

vs.

1.The Deputy Director,
 Industrial Safety and Health,
 (BOCW), Guindy,
 Chennai 600 032.

Respondent

COMMON PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order in C.M.P.No.3831 of 2019 in STC No.194 of 2019 dated 19.07.2019 (in Crl OP No.22752 of 2019) C.M.P.No.3833 of 2019 in STC No.195 of 2019 dated 24.07.2019 (in Crl OP No.22757 of 2019) by the Chief Judicial Magistrate at Thiruvallur.

For Petitioner : Mr.K.Sakthivel
 in both Crl OPs
 For Respondent : Mr.M.Mohammed Riyaz
 in both Crl OPs

COMMON ORDER

These petitions have been filed challenging the order passed by the Court below dismissing the application filed by the petitioner under Section 205 of Cr.P.C, to dispense with his appearance in the proceedings in STC No.194 and 195 of 2019.

2. The respondent has filed a complaint against the petitioner for offences under Section 62(1)(2)(c) Section 7 (1) (2) Rule 23(1) (2) Rule 26(5) and Rule 27 read with sec 2(i) and Sec 2(j), Section 44 Section 40(1) (2) Rule 42(5), Section 62(1)(2)(t) Section 30(1) Rule 241 (1)(a)(9) of Building and Other Construction Works Act and Rules. The petitioner had pleaded guilty and was ready to pay the fine amount. Therefore, an application came to be filed under Section 205 of Cr.PC to dispense with appearance of the petitioner. The Court below has dismissed this application on the ground that the allegations made in the complaint are serious and the discretion is vested with the Court to award either imprisonment or fine or both and therefore, the presence of the petitioner is required during every hearing date.

3. The learned counsel for the petitioner submitted that the Court below has failed to appreciate the fact that the petitioner had already pleaded guilty and therefore, there was no requirement for the petitioner to be present at the time of every hearing and the petitioner can be effectively represented by a counsel appearing on his behalf. The learned counsel further submitted that in the complaint that was filed against the Contractor, he has already approached this Court and filed Crl OP Nos.22336 and 22343 of 2019 and this Court had also stayed the proceedings. Therefore, the learned counsel submitted that the petitioner will be present before the Court below, as and when required and on all the other hearing dates, he can be represented by a counsel.

4. Heard the submission of learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent.

5. Taking into consideration the facts and circumstances of the case, the Court below ought to have considered the dispense with petition filed by the petitioner under Section 205 of Cr.PC. This is more so, due to

the fact the petitioner has already pleaded guilty before the Court below and no useful purpose will be served by making the petitioner to appear in person for every hearing and he can be effectively represented by a Counsel.

6. In the result, the order passed by the Court in CMP Nos.3831 and 3833 of 2019, is hereby set aside and the application filed by the petitioner under Section 205 of Cr.PC is allowed and the petitioner shall be permitted to be represented by a counsel and the petitioner shall be present before the Court below, as and when required during important dates of hearing.

7. These Criminal Original Petitions are allowed accordingly. Consequently, the connected miscellaneous petitions are also closed.

22.08.2019

Speaking Order/Non-Speaking Order

Index : Yes/No

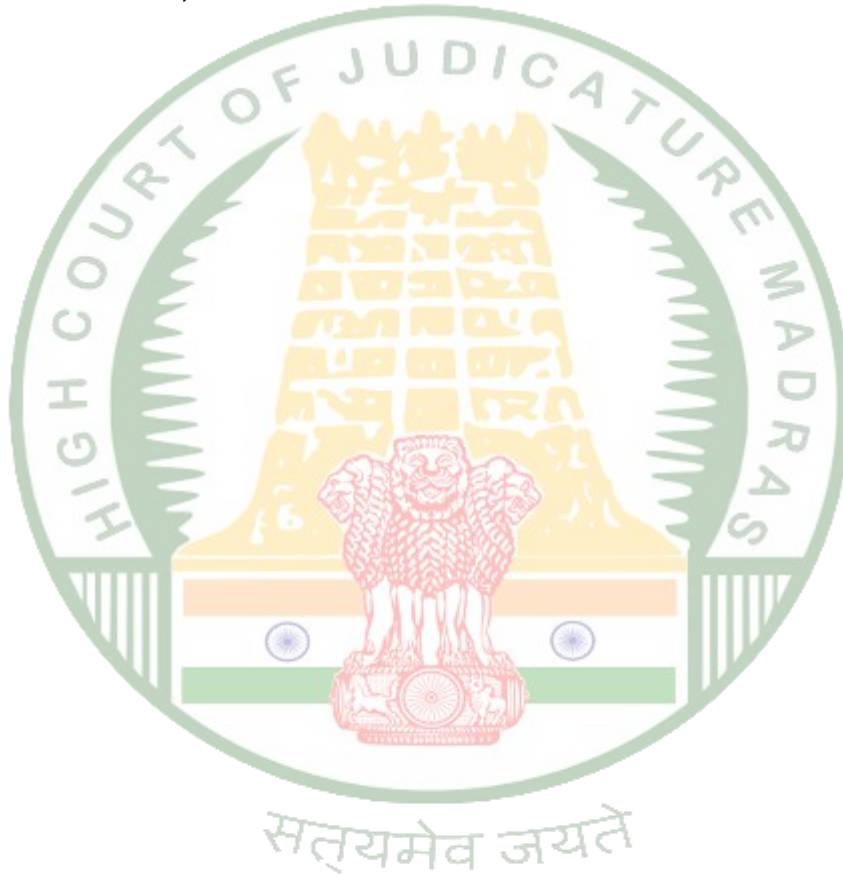
Internet : Yes/No

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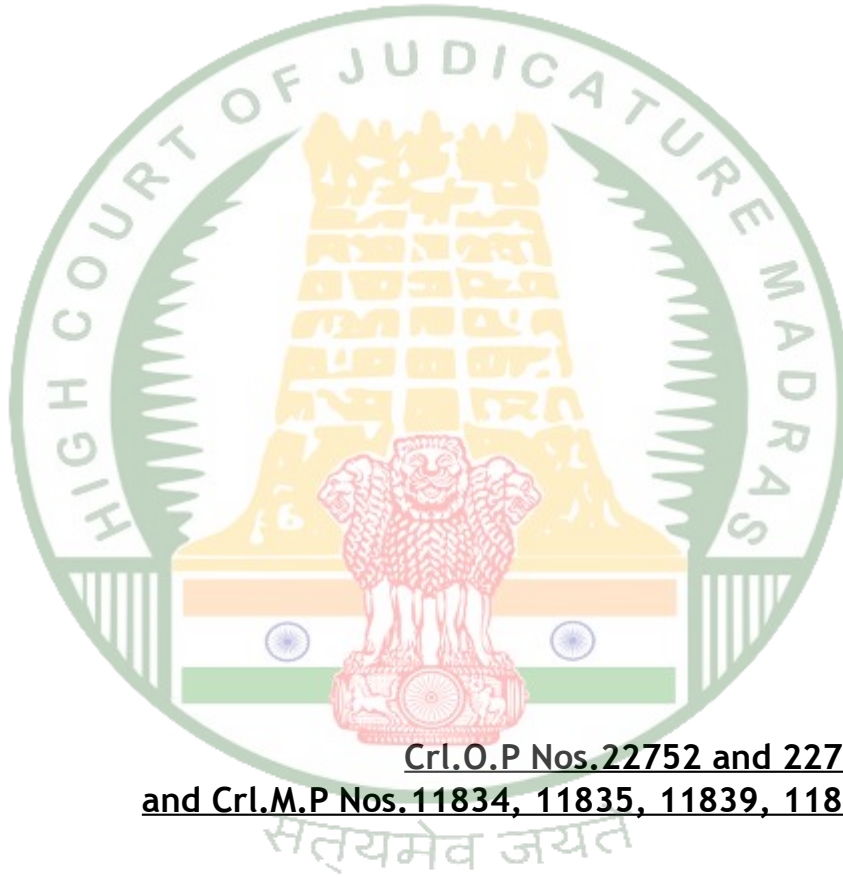
To

1. The learned Chief Judicial Magistrate at Thiruvallur
2. The Public Prosecutor,
High Court of Madras,
Madras.



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N. ANAND VENKATESH,. J.
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