

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.Nos.11183, 11184 & 11185 of 2017
and Crl.M.P.Nos.7383, 7384, 7385,
7386, 7387 and 7388 of 2017

Anil Jain	... Petitioner/1 st Accused in Crl.O.P.No.11183 of 2017
Ravi	... Petitioner/2 nd Accused in Crl.O.P.No.11184 of 2017
Raja	... Petitioner/3 rd Accused in Crl.O.P.No.11185 of 2017

Vs.

The Senior Intelligence Officer, Directorate of Revenue Intelligence, No.25, Gopalakrishna (Iyer) Road, T.Nagar, Chennai - 600 017.	... Respondent/Complainant in all Crl.O.Ps
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COMMON PRAYER:Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in EOCC No.126 of 2015 pending on the file of the Additional Chief Metropolitan Magistrate, EOI, Egmore and quash EOCC No.126 of 2015 dated 08.04.2015 along with all consequential orders and proceedings with regard to the petitioner herein.

For Petitioners: Mr.P.J.Rishikesh
in all Crl.O.Ps

For Respondent : Mr.N.P.Kumar
Special Public Prosecutor for
Directorate of Revenue
Intelligence

C O M M O N O R D E R

The complaint against the petitioners under Section 174 of IPC for disobeying the summons from public servant is under challenge in the present petition.

2.The learned counsel for the petitioners would submit that owing to certain medical ailments between the months of January to March 2015 the petitioners were not in a position to attend the proceedings and thereafter, they had appeared before the Directorate of Revenue Intelligence on 21.04.2015 and also subsequently. As such the learned counsel would submit that a lenient view could be taken for condoning their absence.

3.The learned Special Public Prosecutor for the respondent would submit that the ingredients of the Section 174 of IPC have been clearly made out and that due to the petitioners non-appearance to the summons issued, this Court should not interfere with the proceedings. The learned Special Public Prosecutor for the respondent would submit that if at all petitioners are of the view that the proceedings require to be set aside, it is always open to them to raise all these grounds during the course of trial.

4.Section 174 of IPC reads as follows:

174. Non-attendance in obedience to an order from public servant –

Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place of time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both, or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

5.Perusal of the above provision reveals that omission to attend a place pursuant to summon issued should be an intentional omission and such intention is an essential ingredient to constitute an offence under Section 174 of IPC. Though, pursuant to the impugned complaint, the petitioners had not appeared in response to the summon issued, thereafter, the conduct of the petitioners in choosing to appear before the respondent herein on 21.04.2015 and on subsequent occasions would reveal that the petitioners intention was to submit themselves to the proceedings, pursuant to the summons issued.

6.In view of the subsequent conduct of the petitioners in choosing to appear before the respondent, this Court is of the view that there was no intention on the part of the petitioners earlier to the complaint to refrain from responding to the summon. In the absence of such intention, the offence itself may not be made out and as such, it would not allow the petitioners to undergo the ordeal of criminal trial.

7.In the light of the above observations, the impugned proceedings in EOCC No.126 of 2015 on the file of the Additional Chief Metropolitan Magistrate, E.O.I., Egmore, Chennai stands quashed.

8.Accordingly, these criminal original petitions stands allowed. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

ssr

To

1. The Additional Chief Metropolitan Magistrate, EOI,
Egmore, Chennai.
2. The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
No.25, Gopalakrishna (Iyer) Road,
T.Nagar, Chennai - 600 017.
3. The Public Prosecutor
High Court, Madras.

+3 CCS to Mr.P.J.Rishikesh, Advocate sr 97461.

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VBA(CO)
SP(22/01/2020)