

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.30375 of 2018

P.Natarajan

... Petitioner/Complainant

-Vs-

1. The Superintendent,
The regulating Marketing Committee,
Gingee Town,
Villupuram District.

2. Babu

... Respondents

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the records in C.C.No.63 of 2015 on the file of the Judicial Magistrate at Gingee, to set aside the dismissal order of restoration petition in Crl.M.P. No.2507 of 2018 dated 09.11.2018 to issue a direction to the lower e summon to the first respondent.

For Petitioner : Mr.P.Thirumalai

For Respondents : Mr.M.Mohamed Riyaz

Addl. Public Prosecutor for R1

ORDER

This petition has been filed challenging the order passed by the Court below dismissing the restoration petition filed by the petitioner in Crl.M.P.No.2507 of 2018.

2. The petitioner is the complainant in a private complaint filed against the respondent for an offence under Sections 294, 406 and 420 r/w. 34 of IPC. Though the Court below ordered to pay process fee, the petitioner did not pay the process fee and therefore, the complaint itself came to be dismissed on 23.07.2018 under Section 204(4) of Cr.P.C.

3. The petitioner has therefore chosen to file a petition to restore the complaint by relying upon Rule 120 of the Criminal Rules of Practice. The Court below has dismissed the petition on the ground that Rule 120 of the Criminal Rules of Practice will have no application to the facts of the case.

4. There are absolutely no merits in this petition. Rule 120 of the Criminal Rules of Practice, will apply only to the case where the process fee is paid after the date fixed for payment but before the complaint is dismissed under Section 204 of Cr.P.C. This Rule is more in the nature of excusing the delay in paying the process fee. However, when the complaint has already been dismissed under Section 204(4) of Cr.P.C., the learned Magistrate cannot recall his order by virtue of bar contained under Section 362 of Cr.P.C. Therefore, the Court below is right in dismissing the petition.

5. In the result, the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate,
Gingee,

+1cc to Mr.P.Thirumalai, Advocate, S.R.No.83

CRL.O.P.No.30375 of 2018

VGII(CO)
GSP(25/01/2019)

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