

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1515 of 2018 and
Crl.M.P.No.17787 of 2018

1. Mangilal

2. Nitin JainPetitioners/ A3 & A6

Vs.

The State Represented By
Inspector of Police,
CCB, Investigation,
Chennai.

...Respondent/complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to call for the records culminated in Order dated 13.11.2018 in Crl.M.P.No.6450 of 2018 in C.C.No.6145 of 2016 (CC No.9125 of 2007) on the file of the CCB Metropolitan Magistrate, Egmore, and set aside the same and consequently allow Crl.M.P.No.6450 of 2018.

For Petitioner : Mr.Akhil R Bhansali

For Respondent : Mr.R.Surya Prakash
Government Advocate (Crl.Side)

ORDER

The criminal revision has been filed against the order dated 13.11.2018 made in Crl.M.P.No.6450 of 2018 made in C.C.No.6145 of 2016 (C.C.No.9125 of 2007) by the learned Metropolitan Magistrate, Chennai.

2 The facts leading to prefer this revision are as follows:

The petitioners are arrayed as A3 & A6 in C.C.No.6145 of 2016. The respondent police registered a case against the revision petitioners and others and after investigation, filed a charge sheet under Sections 103 and 104 of Trade Mark Act, 1999 and under Sections 51 (B) r/w. 63 of

Copyright Act and 420, 481, 483, 486 of IPC before the learned III Metropolitan Magistrate, George Town, Chennai. The learned Magistrate has taken the charge sheet on file in C.C.No.9125 of 2007 and therefore the revision petitioners/A3 & A6 filed a new petition in C.C.No.6145 of 2016. Pending the above case, the petitioners/A3 & A6 had filed miscellaneous petition in CrI.M.P.No.6450 of 2018 under Section 317 of Cr.P.C, before the learned Metropolitan Magistrate, George Town, Chennai. The learned Magistrate after hearing both sides, dismissed the petition by order dated 13.11.2018 observing that prima facie, there are allegations made out against this petitioner.

3 Aggrieved against the above said order dated 13.11.2018, the petitioners/A3 & A6 have preferred the present revision before this Court.

4 The learned counsel for the petitioner submitted that though the Calender Case was filed in the year 2016, till date, the prosecution has not produced any evidence and there is no progress in this case and the case has been adjourned several times. The revision petitioners have appeared regularly, but for some of the hearings due to inadvertent situations, they could not appear like on 13.11.2018. But the learned Magistrate dismissed the petition without considering that the case has neither been posted for examination of the witnesses nor cross examination. The presence of the accused was absolutely not necessary on the said day.

5 The learned Government Advocate (CrI.Side) appearing for the respondent/police would submit that still some of the accused persons are absconding.

6 Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) appearing for the respondent and perused the materials placed before the Court.

7 A perusal of the records and also the adjudication orders reveal that the case was not posted for appearance of the petitioners and trial has not been commenced. The learned Government Advocate appearing for the respondent also submitted that some of the accused were absconded. The learned Magistrate should have directed the respondent police to secure the absconded accused and insisted to execute Non Bailable Warrants. Under these circumstances, without considering the above, the trial Court has dismissed the petition filed by the petitioner under Section 317 of Cr.P.C. without application of mind.

8 This Court is inclined to set aside the order passed by the trial Court. However, on reading of the adjudication

orders, Non Bailable Warrants were issued to some of the accused. The respondent police is directed to execute the Non Bailable Warrants pending against the absconded accused and produce them before the trial Court and expedite the trial. The trial Court is directed to dispose of the case within a period of six months from the date of receipt of a copy of this order in accordance with law. The petitioners are directed to extend their fullest cooperation for expeditious disposal of the case. The petitioners are further directed to appear in all the hearings in future till the disposal of the case by the learned Magistrate.

9 With the above observations, the Criminal Revision case is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dh

To

- 1.The CCB Metropolitan Magistrate,
Egmore, Chennai.
2. The Inspector of Police,
CCB Investigation, Chennai.
3. The Public Prosecutor,
High Court of Madras.

Copy To:

The III Metropolitan Magistrate,
George Town, Chennai.

+1 cc to Mr.Akhil R Bhansali, Advocate, Sr.No. 18498

Crl.R.C.No.1515 of 2018 and
Crl.M.P.No.17787 of 2018

MG(CO)
CSL/26.06.2019