



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Thirty First day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.784 of 2019

IN

CRL OP(MD) No.21954 of 2018

ROBERT BRUCE

... PETITIONER/ACCUSED NO.3

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
NITHRAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME.NO.107/2014)

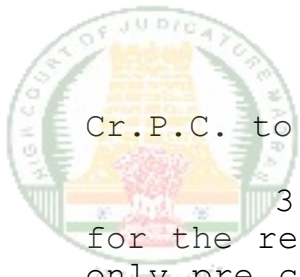
... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to modify the condition imposed on the petitioner to appear before the Learned Judicial Magistrate No.II, Kuzhithurai in all the hearings passed in Crl.O.P.(MD) NO.21954 of 2018 dated 12/12/2018 and permit him to file section 317 Cr.P.C. to condone his absence and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.S.SIVAKUMAR, Advocate for the petitioner and of Mr.K.SUYAMBULINGA BHARATHI Government Advocate (Crl Side) for the Respondents the court made the following order:-

This petitioner has been filed to modify the condition imposed on the petitioner to appear before the learned Judicial Magistrate No.II, Kuzhithurai in all the hearings passed in Crl.O.P(MD). No.21954 of 2018, dated 12.12.2018 and permit him to file petition under Section 317 Cr.P.C. to condone his absence.

2. The learned counsel appearing for the petitioner would submit that the petitioner is a fisherman and he is fishing in the high sea. He would further submit that once the petitioner went inside the sea for fishing he is able to return after one month. He would further submit that the petitioner is only depending on his fishing work for his livelihood and hence, he is unable to comply with the condition imposed by this Court. He would further submit that petitioner is ready and willing to appear before the trial Court if his presence is required and he requested this Court to permit the petitioner to file a petition under Section 317



Cr.P.C. to condone his absence.

3. The learned Government Advocate (Crl. Side) appearing for the respondent on instructions would submit that the offence is only pre committal stage and the petitioner is appearing before the trial Court regularly. He would further submit that since NBW is pending against one of the accused, the case is pending without any progress.

4. Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing for the petitioner, this Court is inclined to modify the condition already imposed on the petitioner in Crl.O.P(MD).No.21954 of 2018, dated 12.12.2018 as follows:

"The petitioner shall appear before the Trial Court as and when his appearance is required by the trial Court and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court."

5. This petition is ordered accordingly.

sd/-

31/01/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO- II,
KUZHITHURAI, KANIYAKUMARI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANIYAKUMARI DISTRICT AT NAGERCOIL.

3 THE INSPECTOR OF POLICE,
NITHRAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
+1. C.C. to MR.S.SIVAKUMAR Advocate SR.No.2021
PS/JC/SAR-1/15.02.2019/2P/6C

ORDER

IN

CRL MP(MD) No.784 of 2019

IN

CRL OP(MD) No.21954 of 2018

Date :31/01/2019