



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.20383 of 2021

M/s.Brunch Room
Represented by its Partner
Karthick Manikandan
S/o.T.K.Srinivasan
17/11, Manickam Street,
Sevapettai
Salem.

... Petitioner/Complainant

Versus

Nirmal Kumar

... Respondent/Accused

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the trial Court to complete the trial in STC.No.958 of 2018 pending on the file of the Judicial Magistrate No.III, Salem, within the time fixed by this Court as expeditiously as possible.

For Petitioner : Mr.V.Prakash Babu

O R D E R

The Criminal Original Petition has been filed to direct the trial Court to complete the trial in STC.No.958 of 2018 pending on the file of the Judicial Magistrate No.III, Salem, within the time fixed by this Court as expeditiously as possible.

2. The petitioner has filed a complaint under Section 138 of the Negotiable Instruments Act, against the respondent/accused. The case was taken on file in STC.No.958 of 2018, which is pending trial, before the Judicial Magistrate



No.III, Salem.

3. The grievance of the petitioner is that though the case was taken on file in the year 2018, for the past three years, there is no progress in the trial. The accused constantly filing petition under Section 317 of Cr.P.C. and not appeared before the Court. Due to the non availability of the accused or his counsel, evidence is not recorded and the case is still at the enquiry stage. Added to it, the petitioner has filed a petition in CMP.No.2771 of 2019 under Section 143 of the Negotiable Instruments Act, seeking the respondent to deposit 20% of the cheque amount. This petition is also kept pending. In view of the same, this petition has been filed before this Court.

4. The petitioner made his submissions and also produced the docket order of the case from 19.11.2018 to 05.10.2021. On perusal of the same, it is seen that the complaint was filed on 19.11.2018. Thereafter, proof affidavit was filed and the case was taken on file and posted on 13.12.2018. Since the accused after receipt of the summon failed to appear, Non Baliable Warrant was issued. Thereafter, on 20.02.2019 he appeared and the Non-Bailable Warrant was recalled and the copies were furnished to the accused on 08.03.2019 and the case was posted for trial. At this stage, the petitioner filed a petition under Section 143-A of Negotiable Instrument Act, seeking direction, to deposit 20% of the cheque amount, which was taken on file in CMP.No.2771 of 2019. Thereafter, the Lower Court has periodically adjourned the case due to the pendency of CMP.No.2771 of 2019 and there is no progress in the trial. The Lower Court citing the pendency of CMP.No.2771 of 2019 and adjourning the case is not proper. In the meanwhile, the Non-Bailable Warrants were issued against the respondent on three occasions and he appeared before the trial Court and the same was recalled. The trial Court allowed the accused to drag on the proceedings. Further, the case which was numbered in the year 2018 has not been progressed and the trial is also yet to commence. The case status report from 19.11.2018 to 05.10.2021 shows that the case has been taken for consideration for 43 hearings, despite the same, the trial Court has not shown any progress.

5. In view of the same, this Court directs the trial Court to complete the trial of this case within a period of two months from the date of receipt of a copy of this order and take coercive action against the respondent, if he fails to co-operate with the trial. The Trial Court should not mechanically accept 317 of Cr.P.C., petition and further the pendency of CMP.No.2771 of 2019 is no way be a reason for not commencing the trial.



WEB COPY

6. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

dna

To

1.The Judicial Magistrate No.III, Salem.

2.The Chief Judicial Magistrate,
Salem.

CRL.O.P.No.20383 of 2021

GJ(CO)
CB(17/11/2021)