



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :31.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P.(MD)No.10195 of 2021

Tamilnadu Mercantile Bank Limited,
Rep by its Branch Manager,
Nageswaran,
T.Kaaikulam Branch,
Radhapuram Taluk.

... Petitioner

Vs.

1.The Inspector of Police,
Vallioor.

2.Pappu @ Papammal

3.Malayammal

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order of return passed by the learned Judicial Magistrate, Vallioor dated 04.02.2021, 05 .02.2021 and 24.02.2021 in Crl.M.P.Unnumbered of 2021 and direct the learned Judge to entertain the said petition and dispose it on merits within a time period to be prescribed by this Court.

For Petitioners : Mr.N.Dilip Kumar
For R1 and R5 : Mr.K.Sanjai Gandhi
Government Advocate

ORDER

This petition has been filed to set aside the order of return passed by the learned Judicial Magistrate, Vallioor dated 04.02.2021, 05 .02.2021 and 24.02.2021 in Crl.M.P.Unnumbered of 2021 and direct the learned Judge to the said petition and dispose it on merits within a time period to be prescribed by this Court.

2.The said petition was filed by the petitioner seeking return of jewels. The grievance of the learned counsel for the petitioner is that the petitioner is a pledger Bank in respect of the articles that have been mentioned in the petition and the criminal cases have been ended in acquittal. In the judgment, the trial court has stated that the articles and the jewels shall be returned to the claimant. The learned counsel for the petitioner would submit that he has got ~~line over the jewels~~ and on that basis, he has presented a petition



before the trial court but it came to be returned stating one or other reason repeatedly. Finally, the petition was returned by stating that the defacto complainant expired and legal heirs must be added and the maintainability of the petition.

3.The learned counsel for the petitioner would submit that the maintainability of the petition can be decided only after numbering the petition.

4.It is seen from the records that the order of return stating that the petition is not maintainable, is not proper and it has to be decided only after numbering the petition.

5.Considering the facts and circumstance of this case, this Court directs the petitioner to rectify those defects as pointed out by the trial Court and also re-present the same within a period of 15 days from the date of receipt of copy of this order and the trial Court is directed to decide the issue on merits, after issuing notice to the concerned parties.

6.The Registry is directed to retransmit the original impugned order passed in Crl.M.P.No.unnumbered of 2021 on the file of the Judicial Magistrate, Vallioor to the learned counsel for the petitioner, enabling them to file the petition.

With the above directions, this Criminal Original petition is allowed

Sd/-

Assistant Registrar (Cs-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

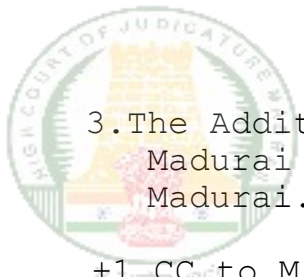
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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate, Vallioor.

2.The Inspector of Police,
Vallioor.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-27828[F] dated 01/09/2021)

WEB COPY

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31.08.2021

DJ(CO)
KB(05.10.2021) 3P 5C