



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.09.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVA**

Crl.O.P. (MD)No.13150 of 2021

S.P.D.Karuppai

... Petitioner/Petitioner

Vs.

1. Balasubramanian

2. The Inspector of Police,
Kundrakudi,
Sivagangai District
(Crime No.88 of 2010)

3.Raja Rathinam

... Respondents/Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the Principal District Munsif cum Judicial Magistrate, Karaikudi to set aside the returned docket order dated 07.05.2021 passed in Cr.M.P.No. Unnumbered of 2021 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi and consequentially to number the unnumbered Cr.M.P.No. Of 2021 to take the petition filed by the petitioner within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R2 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

O R D E R

Even though notice has been ordered to be served on the respondents 1 and 3 in the previous hearing, the learned counsel for the petitioner would submit that this petition is filed on a short point.

2. The petitioner is L.W.2 in the final report. The grievance of the petitioner is that the sole accused, who is appearing before the trial court is not correct person or real person. He is an impersonator impersonating the real accused in the abovesaid case and on that ground he appeared before the trial court on 17.09.2021 and filed a memo and later the case stood adjourned to various dates for examination of witnesses. So far examination of witnesses is not commenced and at that stage, the petitioner presented the petition under Section 340 Cr.P.C to make a preliminary enquiry with regard to the impersonation committed by the accused in this case. That



petition came to be returned by the trial court with an endorsement that for impersonation the petition under Section 340 Cr.P.C cannot be entertained. The correctness of the return has been challenged in this petition.

3. No doubt, the trial court ought to have passed judicial order on the petition filed by the petitioner and it cannot be returned stating that it is not maintainable. The order of return is nothing but administrative order and the trial court ought to have passed judicial order on the sole ground, this Court is inclined to set aside the order.

4. Accordingly, the returned docket order dated 07.05.2021 passed in Cr.M.P.No. unnumbered of 2021 on the file of the Principal District Munsif cum Judicial Magistrate, Karaikudi, is set aside. Let the petitioner re-present the petition before the concerned court. On such re-presentation being made, the trial court is directed to pass a judicial order on maintainability in accordance with law.

5. The Registry is directed to return the original order if it is available in the bundle, after due acknowledgement and replacing the same by xerox copy.

6. With the above said directions, this petition is allowed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

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 Principal District Munsif cum Judicial Magistrate,
Karaikudi,

2.The Inspector of Police,
Kundrakudi,
Sivagangai District.

<https://hcservices.ecodrts.gov.in/hcservices/>



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

4. The Section Officer,
ER Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-30036[F] dated
23/09/2021)

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RK(12.10.2021) 3P 6C