



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Friday, the Eighth day of January Two Thousand and Twenty One

PRESENT

The Hon'ble Mrs. Justice J.NISHA BANU

CRL MP(MD). No.7141 of 2020

in

CRL OP(MD).No.11637 of 2020

1 Jaheer Hussain

2 Sabik Ahamed

...Petitioners/Accused Nos.1 and 2

Vs

1 State rep.by The Inspector of Police,
Theppakulam Police Station, Madurai City

(Crime No.157 of 2020) ...1st Respondent/Complainant

2 Yoga Lathamangesh

...Respondent/Defacto Complainant

Prayer :-

Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, praying this Court to restore the above Crl.O.P.(MD).No.11637 of 2020 which was dismissed on 04.11.2020 for default.

Prayer in CRL OP(MD).No.11637 of 2020 :

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the FIR in Crime No. 157 of 2020 on the file of the 1st respondent police and quash the same as illegal so far as the petitioners are concerned.

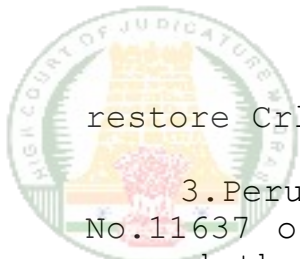
ORDER:-

Criminal Miscellaneous Petition coming upon for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Balasubramanian, Advocate for the Petitioners and of Mr.V.Neelakandan, Additional Public Prosecutor for the 1st Respondent, this Court made the following order:

The Criminal Miscellaneous Petition has been filed to restore the Crl.O.P(MD).No.11637 of 2020 which was dismissed for default on 04.11.2020.

2.The learned counsel for the petitioner would state that on 04.11.2020, due to network issue, the petitioner's counsel was not able to be present and later, he came to understand that the above case was dismissed for default due to non representation by the counsel. He would further state that non mentioning of the earlier quash petition in Crl.op.No.8208/2020 was due to typographically error and there was no intension to suppress the details and the

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



restore Crl.O.P(MD)No.11637 of 2020.

3.Perusal of the order dated 04.11.2020 passed in Crl.O.P.(MD). No.11637 of 2020 shows that the said petition was dismissed on the ground that already Crl.O.P.(MD)No.8208/2020 has been filed by the petitioner for the same relief on the same set of facts which was dismissed by this Court on 18.08.2020 and since the dismissal of earlier quash petition was suppressed by this petitioner,Crl.O.P (MD).No.11637 of 2020 was dismissed by order dated 04.11.2020 holding that the same is an abuse of process of the court. In my opinion, it is act of perjury. The learned counsel for the petitioner would state that due to typographical error, the petitioner gas not mentioned the dismissal of earlier quash petition and he would also plead apology. Though this petition is liable to be dismissed with heavy cost, I am inclined to dismiss the restoration petition with the earning to the advocate no to indulge in such practice in future.

With the above observation, this petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO

- 1.The Inspector of Police,
Theppakulam Police Station,
Madurai City.
2. The Additional Public prosecutor,
Madurai Bench of Madras High Court,
Madurai

CRL MP(MD) . No.7141 of 2020
in
CRL OP(MD) .No.11637 of 2020
08.01.2021

KB(05.02.2021) 2P 3C