



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/12/2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.18144 of 2021

M/s.Rajah Holdings,
Registered Partnership Firm,
Having its Offices at D.No.69,
Town High School
Road, Kumbakonam,
Represented by its Managing Partner,
Mr.R.V.Subhramaniyaam.

... Petitioner/Complainant

Vs

R.R.Gopaljee,
S/o. Late.R.Raghavan,
14a, New Number
24, Birds Road, Cantonment,
Tiruchirappalli-620 001..

... Respondent/Accused

For Petitioner : M/s.Ganthimathi AL,
Advocate.

PETITION FOR DIRECTION Under Sec.482 of Cr.P.C

PRAYER :-

This Criminal Original Petition is filed under Section 482 of Cr.P.C. to direct the Judicial Magistrate-I, Kumbakonam to dispose of STC.No.1743 of 2019 expeditiously within a time frame as may be directed by this Honble Court and pass such further or other orders as this Honb'le Court.

ORDER : The Court made the following order :-

This Criminal Original Petition is filed under Section 482 Cr.P.C., seeking a direction to the Judicial Magistrate-I, Kumbakonam to dispose of the case in STC.No.1743 of 2019 expeditiously within a time frame as fixed by this Court.



2. Heard the learned Counsel for the petitioner and perused the materials placed on record.

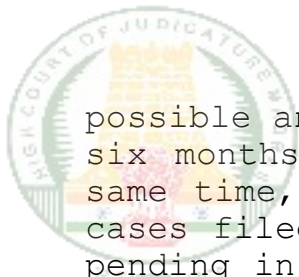
3. Considering the nature of the relief sought for by the petitioner, issuance of notice to the respondent is not necessary and the same is dispensed with.

4. The petitioner has filed a complaint under Section 138 of the Negotiable Instruments Act before the Court of Judicial Magistrate No.II, Kumbakonam on 31.05.2018 and the case was taken on file in S.T.C.NO.450 of 2018. It is the specific case of the petitioner that the case was transferred to the file of the Court of Judicial Magistrate NO.I, Kumbakonam in October 2019 and the same was taken on file in S.T.C.No.1743 of 2019, and that since the respondent/accused had evaded the service of summons, bailable warrant was ordered to be issued on 31.07.2018. It is the further case of the petitioner that the respondent/accused, after ten months, had entered into appearance on 07.05.2019 and filed an application under Section 70(2) Cr.P.C., to recall the warrant, but the said petition was ordered to be dismissed by the learned Magistrate.

5. The respondent/accused, challenging the dismissal of the petition, filed a revision before this Court in Crl.R.C.(MD)No.363 of 2019 and filed another revision in Crl.R.C.(MD)No.364 of 2019, challenging the order passed under in the application filed under Section 70(2) Cr.P.C., in S.T.C.No.460 of 2018 and that this Court has passed a common order dated 24.09.2019, allowing the revision cases and thereby set aside the dismissal orders passed in the petitions filed under Section 70(2) Cr.P.C. and recalled the non-bailable warrants issued against the respondent/accused and also directed the respondent/accused to give an undertaking before the Court of Judicial Magistrate No.II, Kumbakonam that he will extend his fullest cooperation to ensure that the cases in S.T.C.Nos.450 and 460 of 2018 are disposed of without any further delay and that the trial Court was given liberty to proceed against the petitioner as it deems fit in accordance with law, in case any non-cooperation on the side of the petitioner is noticed.

6. The case of the petitioner is that during the lock down period and even after resumption of regular functioning of the Courts, the respondent has not filed the undertaking affidavit, as directed by this Court and he has furnished the same only on 22.09.2020. Thereafter, the respondent has failed to appear before the trial Court, that on 15.03.2021 bailable warrant was ordered to be issued, that subsequently the bailable warrant was also recalled on 05.04.2021 and that the respondent has been dragging on the proceedings willfully, despite the directions of this Court.

7. Section 143(3) of the Negotiable Instruments Act
<https://www.secretpoint.gov.in/hcset/has> every trial shall be conducted as expeditiously as



possible and an endeavour shall be made to conclude the trial within six months from the date of filing of the complaint. But at the same time, this Court can take judicial notice that more number of cases filed under Section 138 of the Negotiable Instruments Act are pending in all the Magistrate Courts. In the case on hand, despite the specific directions issued by this Court for the earlier disposal of the case, as rightly contended by the learned Counsel for the petitioner, the respondent/accused has been protracting the proceedings.

8. Considering the above facts and circumstances of the case and without expressing any opinion with regard to the merits of the case, this Court is inclined to issue direction to the trial Court for speedy trial of the case. Accordingly, the learned Judicial Magistrate No.I, Kumbakonam is directed to proceed with the trial and dispose of the same on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order, uninfluenced by any of the observations made in this order.

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

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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

The Judicial Magistrate No.1,
Kumbakonam.

CRL OP(MD) No.18144 of 2021

Date : 01/12/2021

MGJ(13.12.2021) 3P 2C