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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.1987 OF 2022

&

CRL.M.P.NO.868 OF 2022

1.R.Ashok Kumar

2.S.Ananthapadmanaban

3.K.Palanisamy

4.A.Jeeva

5.R.Umapathy

...Petitioners

Versus

1.The State

Rep by its Inspector of Police,
Mecheri police Station,
Salem District.
(Crime No.265 of 2019)

2.T.Thirumurugan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to set aside the order dated 22.12.2021 in PRC.No.8 of 2020 on the file of the learned Judicial Magistrate II Mettur.

For Petitioners : Mr.A.Esakkiappan

For Respondent : Mr.E.Raj Thilak for R1
Additional Public Prosecutor

O R D E R

This petition has been filed to set aside the order dated 22.12.2021 in PRC.No.8 of 2020 on the file of the learned Judicial Magistrate II Mettur.

2. The petitioners who are A2 to A6 in PRC.No.08 of 2020 filed this petition seeking to set aside the order passed by the Judicial Magistrate II, Mettur on 22.12.2021 directing



appearance of all the accused before the Court, failing which the Non Bailable Warrant will be issued against A1 to A6.

3. The contention of the petitioners is that all the accused have approached this Court and obtained interim order of Stay and dispense with. The petitioners herein A6/Umapathy have filed a quash application in CrI.O.P.No.12898 of 2020 and obtained dispense with for the personal appearance in CrI.M.P.No.5026 of 2020 on 25.08.2020, A5/A.Jeeva filed CrI.O.P.No.15491 of 2020 and obtained Interim Stay and dispense with the personal appearance order in CrI.M.P.Nos.5900 & 5902 of 2020 on 30.09.2020 and A2/R.Ashok Kumar, A3/S.Anandapadmanaban and A4/K.Palanisamy filed CrI.O.P.No.15615 of 2020 obtained dispense with the personal appearance order in CrI.M.P.No.5496 of 2020 on 01.10.2020.

4. In view of the same, when the order of the High Court is there, favoring the petitioners, dispense with personal appearance, the Judicial Magistrate now directing the petitioners to appear and also giving a threat to issue Non Bailable Warrant is an over reach, not proper violation of Judicial discipline.

5. In view of the same, this Court sets aside the order passed by the learned Judicial Magistrate No.II, Mettur, on 22.12.2021. If the Magistrate requires the appearance of the petitioners, either direct the prosecution to file a petition before this Court and get appropriate orders or write to this Court, get it clarified and thereafter proceed in accordance with Law.

6. With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

dna/mdl

To

1.The Judicial Magistrate No.II,
Mettur.

2.The Inspector of Police,
Mecheri police Station,
Salem District.



3.The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.A.M.Esakkiappan, Advocate Sr.No.5512

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CP(CO)
RVM(10/02/2022)