



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.3218 OF 2019

AND

CRL.M.P.NO.2095 OF 2019

S.Sundarajan

... Petitioner/Accused No.12

Versus

N.Kumar

... Respondent/Complainant

Prayer: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the Private Complaint in C.C.No.115 of 2017 on the file of the Judicial Magistrate, Vaniyambadi and quash the same as illegal.

For Petitioner : Mr.R.Gopinath

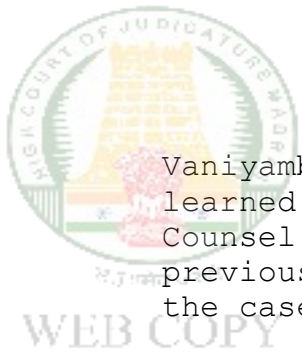
For Respondent : Mr.K.Thiruvengadam

ORDER

This Criminal Original Petition had been filed seeking to quash the Private Complaint in C.C.No.115 of 2017 on the file of the learned Judicial Magistrate, Vaniyambadi.

2. When the case came up for hearing on 07.04.2022, there was no representation for the Petitioner. The learned Counsel for the Respondent present in Court. On request, it was adjourned to 22.04.2022. Since there was no sitting on 22.04.2022, the case was taken up on 25.04.2022. On 25.04.2022 also, there was no representation for the Petitioner. The Respondent Counsel was present. Therefore, the case was adjourned to 26.04.2022 with a caption "for dismissal".

3. The learned Counsel for the Respondent present on the previous hearings and objected to quash the complaint in C.C.No.115 of 2017. He had also objected to the extension of interim stay granted against the learned Judicial Magistrate,



Vaniyambadi not to proceed with the trial. Therefore, as the learned Counsel for the Petitioner being absent and the learned Counsel for the Respondent being present in Court in the previous hearings, this Court had directed the Registry to print the case under the caption 'For dismissal' today.

4. Today, the case is posted in the top of the list and in the morning session, there is no representation for the Petitioner. Again in the afternoon session, when the case is called, there is no representation for the Petitioner. When the proceedings of the day was concluded, a Counsel stating to be representing the Counsel for the Petitioner on record wanted to offer his apology. When this Court had requested him to proceed with the arguments, he was not willing to proceed with the arguments stating that he does not have the case records with him. Therefore, this Court had handed over the Court records to the learned Counsel for the Petitioner to peruse the records and proceed with the arguments and made it clear that this Court can hear the Respondent tomorrow and proceed with the reservation of the case for orders, but, he was not willing. In the above circumstances, the continuous presence of the learned Counsel for the Respondent/Complainant through out the past hearings and the continuous absence of the learned Counsel for the Petitioner through out the past hearings, it can be presumed that the Petitioner does not intend to proceed with the case.

5. On perusal of the records, it is found that it is case borne out of a complaint for dishonour of cheque. Considering the fact that an interim stay was granted and the accused, who is facing trial before the learned Judicial Magistrate, Vaniyambadi had successfully protracted the proceedings and delayed the trial for more than four years, this Criminal Original Petition is liable to be dismissed.

6. As per the instructions issued to the trial Judges by the High Court based on the guidelines of the Hon'ble Supreme Court regarding disposal of criminal cases without delay. The Petitioner herein who is arrayed as an accused had approached this Court to quash the criminal complaint pending on the file of the learned Judicial Magistrate, Vaniyambadi in C.C.No.115 of 2017 and had protracted the proceedings for more than four years on the strength of the interim stay granted. The attitude of the Petitioner before this Court, who is arrayed as an Accused before the learned Judicial Magistrate, Vaniyambadi cannot at all be accepted from the conduct of an ordinary law abiding citizen. Further, as per the ruling of the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal, reported in 1992 Supp (1) SCC 335, the High Court shall not exercise its extraordinary powers under Section 482 of Cr.P.C. leniently, to



quash criminal complaint, FIR, charge sheet, etc., which will lead to miscarriage of justice and the power has to be used sparingly.

7. In this case, it is a glaring example of the accused misusing the provisions of Section 482 of Cr.P.C. to stall the proceedings to scuttle all the proceedings of the trial Court viz., learned Judicial Magistrate, Vaniyambadi. In the light of the above, this Court dismiss this petition as not maintainable and direct the learned Judicial Magistrate, Vaniyambadi to proceed with the trial within a period of fifteen days from the date of receipt of the copy of this order. If any of the Accused are absconding, warrant may be issued. If the absconding accused is produced on execution of Non-Bailable Warrant, the learned Judicial Magistrate, Vaniyambadi shall remand the accused and proceed with the trial, during the period of remand of the absconding accused. Only by filing this petition under Section 482 of Cr.P.C., the Petitioner herein who is the Accused before the learned Judicial Magistrate, Vaniyambadi, had adopted delaying methods, the learned trial Judges offering explanation for not disposing of the cases, can be prevented.

8. With the above directions, the Criminal Original Petition is dismissed. Consequently, connected Criminal Original Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Vaniyambadi.
2. -do- through The Chief Judicial Magistrate,
Vellore.
3. The Public Prosecutor,
Madras High Court, Chennai.

Crl.O.P.No.3218 of 2019
and
Crl.M.P.No.2095 of 2019

AD(CO)
RLP(25/05/2022)