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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.9673 of 2022 & Crl.M.P.No.5667 of 2022

Sangeetha

... Petitioner

Vs.

K.R.Thyagarajan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the adjudication Order dated 31.08.2021 made in C.C.No.2189 of 2020 on the file of the learned XX Metropolitan magistrate, Allikulam, Chennai and thereby enable the proxy to appear and defend the case in the best interest of justice.

For Petitioner : Mr.S.Senthilnathan

For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to set aside the adjudication Order dated 31.08.2021 made in C.C.No.2189 of 2020 on the file of the learned XX Metropolitan magistrate, Allikulam, Chennai issuing non bailable warrant against the petitioner.

2. The main contention of the learned counsel appearing for the petitioner is that proof of service has been manipulated as if the notice has been served on the petitioner and the acknowledgement has been signed by the person, who is no way connected with the petitioner. In fact, the petitioner along with her family were all along residing in America. Therefore, seeks to set aside the said Order. In support of his submissions he also filed a copy of the passport.

3. When the copy of the passport is perused, the entire found in the passport makes it clear that the petitioner infact has left India on 14.02.2020, the seal of the Emigration



Department proves the same. Having regard to the above fact, when the petitioner is not in India, taking notice to some other person and obtaining warrant itself is nothing but playing fraud on the Court.

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4. The learned counsel for the petitioner also seeks to appear by special vakalat and enable the proxy to appear and defend the case.

5. Accordingly, this Criminal Original Petition is allowed and the Order dated 31.08.2021 issuing Non Bailable Warrant in C.C.No.2189 of 2020 on the file of the XX Metropolitan Magistrate, Allikulam, Chennai is set aside. Consequently, connected miscellaneous petition is closed. In view of the submission of the learned counsel for the petitioner, the personal appearance of the petitioner is dispensed with except for questioning under section 313 Cr.P.C. and on the date of pronouncing judgment and the proxy shall defend the case on behalf of the petitioner.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vrc

To,

The XX Metropolitan Magistrate,
Chennai.

+1cc to M/s.S.Senthilnathan, Advocate, S.R.No.39116

Cr1.O.P. No.9673 of 2022

RK (CO)
UMA (04/07/2022)