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Crl.O.P.Nos.25486 and 25489 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.25486 and 25489 of 2022

and

Crl.M.P.Nos.15822 and 15823 of 2022

R.Rajarajeswari

... Petitioner in both petitions

Vs.

A.Shanmuga Sundaram

... Respondents in both petitions

COMMON PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate, Fast Track Court, Omalur in C.M.P.Nos.4 and 5 of 2022 in S.T.C.No.43 of 2020 dated 01.07.2022 and allow these petitions.

For Petitioner
in both petitions : Mr.S.Parthasarathy

For Respondent
in both petitions : Mr.T.Ganesan



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COMMON ORDER

These Criminal Original Petitions have been filed to set aside the order passed by the learned Judicial Magistrate, Fast Track Court, Omalur in C.M.P.No.4 of 2022 in S.T.C.No.43 of 2020 dated 01.07.2022 and allow these petitions.

2. The learned counsel for the petitioner submitted that the petitioner filed CMP.Nos.4 and 5 of 2022 in STC.No.40 of 2020 for the purpose of reopening the case and for summoning certain documents under Section 91 of CrPC. On the date of hearing on 01.07.2022, the petitioner was not present before the trial Court. Therefore, bailable warrant was issued against the petitioner and both the petitions were dismissed without giving opportunity to the petitioner to put forth his submission on merits.

3. The learned counsel for the respondent opposed the petition on the ground that the petition filed for reopening petitioner's evidence and for summoning documents had been filed at the stage of arguments. This is an exercise only to protract proceedings and that apart documents ought to be summoned are not relevant to the case.



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4. Considered the submission made by both the learned counsel and perused the materials available on record.

5.This Court finds from the orders passed in CMP.Nos.4 and 5 of 2022 that both the petitions had been dismissed without considering the petitioner's claim on merits and only for the reason that there was no representation for the petitioner. It is reported by the learned counsel for the respondent that the respondent had not filed a counter in this petition. This Court is of the view that for the absence for only one day, dismissal of the petition filed in CMP.Nos.4 and 5 of 2022 is not just and proper and hence, dismissal order is set aside. Both the petitions shall be decided on merits. If the respondents had not filed the counter, the learned trial Judge is directed to give an opportunity to respondents to file counter. On such filing of counter, the learned trial Judge is directed to dispose both the petitions on merits and in accordance with law.

6. With the above directions, these Criminal Original Petitions are disposed of.



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nsa

To

The Judicial Magistrate,
Fast Track Court,
Omalur



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G.CHANDRASEKHARAN,J.

nsa

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