



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.10827 of 2023
and Crl.M.P.(MD).No.8645 of 2023

S.Sundaravalli

... Petitioner/Appellant/3rd Party

Vs.

1.Jayaraman

... Respondent/Accused

2.The State rep. by
The Inspector of Police,
CCB Police Station,
Madurai District.
(Crime No.77 of 2017)

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the docket order in unnumbered Crl.M.P. dt. 24.04.2023, on the file of the Judicial Magistrate Court No.I, Madurai, and permit the Petitioner to proceed the case with Petitioner instead of the De-Facto Complainant in Cr.No.77 of 2017 of CCB Police Station, Madurai, pending before the learned Judicial Magistrate.

For petitioner : Mr.G.Rajasekar

For Respondents : Mr.B.Nambiselvan for R2
Additional Public Prosecutor



ORDER

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This petition has been filed challenging docket order in unnumbered CrI.M.P. dt.24.04.2023, on the file of the Judicial Magistrate Court No.I, Madurai, and also seeking permission to the Petitioner to proceed the case with Petitioner instead of the De-Facto Complainant in Cr.No.77 of 2017 of CCB Police Station.

2.Originally one Gopal, who was working as Chief Executive Officer of the Company, in which, this petitioner was erst while Managing Director, filed a complaint under Section 156 (3) Cr.P.C. before the Court and that was forwarded to the second respondent herein. After registration of FIR, the above said enquiry was closed as Mistake of Fact. Closure report was also served upon the defacto complainant. Later his whereabouts are not known. Over which only, now the petitioner has filed the present petition before the learned Judicial Magistrate No.I, Madurai, that was returned questioning the maintainability.

3.The maintainability should not be decided on the administrative's side without even numbering the petition. It must be taken on the judicial side and also opportunity must be given to the petitioner. On the sole



ground, the above said order is liable to be set aside.

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4. Accordingly, the docket order made in unnumbered Crl.M.P. dt. 24.04.2023, on the file of the Judicial Magistrate Court No.I, Madurai, is hereby set aside. Let the above said returned petition be represented before the learned Judicial Magistrate No.I, Madurai, by the petitioner. The learned Judicial Magistrate No.I, Madurai, shall process the above said petition and decide the same on its judicial side. For that purpose, let the above said petition be returned back to the petitioner by the Registry.

4. With the above said directions, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

20.06.2023

Index : Yes/No

Internet : Yes/No

TM

To

1. The Judicial Magistrate No.I, Madurai.

2. The Inspector of Police,
CCB Police Station,
Madurai District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,



Madurai.

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G.ILANGO VAN. J.

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