



Crl.O.P.(MD)No.11772 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 30.06.2023

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.11772 of 2023
and
Crl.M.P(MD).No.9299 of 2023

Pitchai Moideen

... Petitioner

Vs.

State rep. by its
The Inspector of Police,
Pathamadai Police Station,
Tirunelveli District.

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the docket order passed by the Judicial Magistrate, Cheranmadevi dated 24.04.2023 in unnumbered Cr.M.P.SR.No. 3447 of 2023 in C.C.No.411 of 2020 and direct the learned Judicial Magistrate, Cheranmadevi to number the discharge petition submitted under Section 239 of Cr.P.C filed by the petitioner.

For Petitioner
For Respondent

: Mr.R.Maheswaran
: Mr.B.Nambiselvan
Additional Public Prosecutor



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ORDER

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This petition has been filed to set aside the docket order passed by the Judicial Magistrate, Cheranmadevi dated 24.04.2023 in unnumbered Cr.M.P.SR.No.3447 of 2023 in C.C.No.411 of 2020 and direct the learned Judicial Magistrate, Cheranmadevi to number the discharge petition submitted under Section 239 of Cr.P.C filed by the petitioner.

2. The learned counsel for the petitioner submitted that there are six accused in this matter. Five accused have approached this Court and one accused is absconding. Because of the non appearance of the third accused, the unnumbered petition that was presented by the petitioner was returned.

3. This Court is not in a position to understand the legality of the return order. There is no bar for filing petition to discharge from the proceedings, even if any one of the co-accused is absconding. On that ground, return of order passed in unnumbered Cr.M.PSR..No.3447 of 2023 in C.C.No.411 of 2020 is set aside and the learned Judicial Magistrate, Cheranmadevi is directed to process the discharge petition as per rules and dispose of the same within a period of one month from the date of receipt of a copy of this order.



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

30.06.2023

Index : Yes/No
Internet:Yes/No
tta

To

- 1.The Inspector of Police,
Pathamada Police Station,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J.,

tta

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**Crl.O.P(MD)Nos.11772, 11773, 11781
11790 and 11786 of 2023**

G. ILANGO VAN J:

The matter is listed today under the caption “for being mentioned”, at the instance of the learned counsel appearing for the petitioner.

2. It is submitted by the learned counsel for the petitioner that original papers were enclosed along with the typed set of papers and the same may be returned.

3.Let the above said papers be returned to the petitioner, since a direction is issued to the Judicial Magistrate, Cheranmadevi to process the application.

3.In view of the same, the Registry is directed to issue a fresh copy.

07.07.2023

PNM