



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Friday, the Tenth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD). No.8900 of 2023
in
Crl.OP(MD)No.6144 of 2017

P.Pandiarajan ... Petitioner/Petitioner/ Accused

Vs

M.Mayyakkal ... Respondent/Respondent/Complainant

Prayer in CRL MP(MD). No.8900 of 2023:-

This Criminal Miscellaneous petition is filed under section 482 of Cr.P.C.,,to recall the order of this Honble Court made in Crl.OP(MD)No.6144 of 2017 dated 03.11.2022.

Prayer in Crl.OP(MD)No.6144 of 2017:-

This Criminal Original Petition is filed under section 482 of Cr.P.C.to call for records relating to STC No.422 of 2016 pending on the file of the learned Judicial Magistrate No.I, Fast Track Court (Magisterial Level), Madurai and to quash the said proceedings as against the petitioner herein.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of



Mr.K.Prabakaran, Advocate for the Petitioner and of Mr.V.Manikandan, Advocate for the respondent, this Court made the following order:

“When the matter came up for hearing on 17.07.2023, this Court passed the following order:

“The matter is posted pursuant to the petition filed by the petitioner / accused to recall the order passed by this Court on 03.11.2022.

2. The learned Counsel for the petitioner submitted that the proceedings before the Court below in S.T.C.No.422 of 2016 was quashed by this Court by order, dated 18.05.2017. In view of the same, there was no occasion for this Court to once again list this matter and pass the subsequent order on 03.11.2027 directing the the Court below to proceed further in S.T.C.No.422 of 2016.

3.The Registry is directed to call for a report from the learned Judicial Magistrate No.I, Fast Track Court (Magisterial Level), Madurai and get a confirmation as to whether the concerned Court received any order dated 18.05.2017 quashing the complaint in S.T.C.No.422 of 2016. Even if the original bundle is not available before the High Court, if any order had been passed by this Court quashing the complaint, certainly such order will form part of the records before the Court below. Hence the report from the Court below will give more clarity in this case.



4. Post this petition under the same caption on 07.08.2023 at 2.15 P.M.

In the mean time, the report shall be placed in the bundle."

2. A report has now been received from the learned Judicial Magistrate-I (FTC at Magisterial level), Madurai, dated 23.08.2023. It is seen from the records that the same petitioner had filed the quash petition in CrI.O.P.(MD)No.6144 of 2017 and an order dated 18.05.2017 came to be passed. This order was not brought to the notice of this Court, when further order was passed in CrI.O.P.(MD)No.6144 of 2017.

3. The said petition was filed before the vacation Court and at that time, this Court passed the following order:

"Though it is alleged in the complaint that the respondent/complainant has issued notice by registered post with acknowledgment due. But there is no averments in the complaint when the notice was sent and when was the petitioner/accused has received the notice. But in the complaint, it is stated that an intimation delivered and the respondent/default complainant filed a complaint under Section 138 of Negotiable Instruments Act. Hence, this complaint is not maintainable and on this ground this petition is allowed. Notice."



4.This Court could not have quashed the proceedings even at the admission stage without even issuing notice to the respondents. The same is apparent from the fact that notice was ordered by this Court. Hence, the order passed by this Court on 18.05.2017 cannot be considered to be a final order. The order, that was passed by this Court on 03.11.2022, alone should be considered to be a final order in this case.

5.A criminal complaint was given in the year 2014 and the petitioner has managed to keep the proceedings pending for the last nine years. This Court has already held that there is no ground to quash the proceeding and had fixed a time limit for the completion of the proceedings. Due to the subsequent confusion that was raised, the proceedings before the Court below did not continue.

6.In the light of the above discussion, this petition is dismissed and there shall be a direction to the learned Judicial Magistrate-I (FTC-Magisterial level), Madurai, to dispose of the proceedings in S.T.C.No.422 of 2016 within a period of two months from the date of receipt of a copy of this order and a compliance report shall be filed before this Court.”

Sd/-

Assistant Registrar(T&P)

// True Copy //

15/11/2023

Sub Assistant Registrar(CS)



TO
The Judicial Magistrate -1,
(FTC-Magisterial Level), Madurai.

Copy to:
The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai(to watch the matter)

ORDER DATED : 10/11/2023

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ORDER

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CRL MP(MD). No.8900 of 2023

in

CrI.OP(MD) No.6144 of 2017

SI (15.11.2023) 5P/ 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.