



CrI.O.P.(MD)No.20714 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2023

CORAM:

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

CrI.O.P.(MD) No.20714 of 2023

and

CrI.M.P.(MD) No.16739 of 2023

Praveen Kumar

... Petitioner

Vs.

M.Senthil

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the returned docket order, dated 05.01.2023 and consequently to direct the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District to number the case in unnumbered CrI.M.P.No.Nil/2022, on the file of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District and to proceed in accordance with law.

For Petitioner : Mr.R.L.Dhilipan Pandian



ORDER

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This Criminal Original Petition is filed to set aside the returned docket order, dated 05.01.2023 and consequently to direct the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District to number the case in unnumbered Crl.M.P.No.Nil/2022, on the file of the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District and to proceed in accordance with law.

2. Only a short point arises for consideration that the original complaint was filed by the petitioner in S.T.C. No.206 of 2019, was dismissed for non-prosecution on 05.08.2022. There after, he filed an application to restore the complaint. But, it came to be returned by the concerned trial Court by the order, dated 05.01.2023, stating that judgment was pronounced, so restoration application is not maintainable, against which, he preferred the revision before the Principal District and Sessions Court, Thanjavur, in unnumbered Crl.R.C., it was returned on 01.02.2023, stating that Cr.M.P.No.132 of 2022 was dismissed by the trial Court. Again it was represented clarifying the position, again it came to be returned stating that the power agent cannot maintained the revision. After that this petition is filed before this Court under Section 482 Cr.P.C., to correct the error committed by the learned Judicial



Magistrate, Thiruvaiyaru, Thanjavur District, seeking direction to the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, to process the petition filed for restoration.

3. This petition is allowed, on the sole ground that without entertaining the restoration petition on judicial side on maintainability, that has been returned, which may not be proper. So, the order passed by the learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, in unnumbered Cr.M.P.No.Nil/2022, is set aside. The learned Judicial Magistrate, Thiruvaiyaru, Thanjavur District, is directed to restore the Cr.M.P.No.Nil/2022 to file and after offering opportunity to the petitioner, let the matter be decided by considering the merits on the judicial side.

4. With the above said direction, this Criminal Original Petition is allowed.

27.11.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No

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G.ILANGO VAN. J.

Indu

To

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

Crl.O.P.(MD) No.20714 of 2023

27.11.2023