



WEB COPY



Crl.M.P.No. 4823 of 2024 in
Crl.O.P.No. 5099 of 2022

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T.V.THAMILSELVI, J.

This Criminal Miscellaneous Petition has been filed to restore the Crl.O.P.No.5099 of 2022, which was dismissed on 09.01.2024.

2. Mr.K.M.Kalicharan, learned counsel for petitioner would submit that when the matter came up for hearing on 09.01.2024, due to state of his health, there was no representation on behalf of petitioner and he was not able to give instructions. He would submit that as the petitioner is not at fault, he cannot be held liable for the mistake of his counsel. He would submit that he has not taken any unjustified adjournments and he is ready for final arguments, if not for the medical condition, he would have presented his arguments on that day. Accordingly, the matter was called and dismissed on that day and his non-appearance on that day is neither willful nor wanton and only due to the aforesaid reasons.. Now, the petitioner filed this petition to restore the aforesaid Crl.O.P.

3. Mr.S.Vinoth Kumar, learned Government Advocate (Crl. side)



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appearing for 1st respondent raised strong objections stating that the petitioner was always absconding and he is in abroad. Due to his absence, they are not able to proceed with the trial proceedings though the summons was served on with other accused. Hence, he prayed to dismiss this petition.

4. By way of reply, learned counsel for petitioner would submit that due to unavoidable circumstances, he is not able to appear on that day and the petitioner is in India only. Hence, he prayed to restore the above Crl.O.P.

5. Considering the facts and circumstances and being satisfied with the reasons assigned in the affidavit filed in support of the petition, this Court is inclined to allow this petition and to restore the above Crl.O.P. However, in order to show the petitioner's bonafide, he is directed to appear before this court on 20.03.2024.

6. Post the matter for hearing on 20.03.2024.

18.03.2024

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