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Crl.O.P.No.7946 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:04.04.2024

Coram

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.7946 of 2024

and

Crl.M.P.No.5774 of 2024

Mr.Suresh Kumar Ramanujam

.. Petitioner

/versus/

1.The State

Represented by the
Inspector of Police,
W-28, All Women Police Station,
Ambattur, Chennai.

2.Mrs.Sushmitha Devarajan

.. Respondents

Criminal Original Petition has been filed under Section 482 of Cr.P.C.,
praying to call for the records in C.C.No.42 of 2013 on the file of Judicial
Magistrate I, Poonamallee and to quash the same and to cancel the look out
notice issued by the 1st respondent to the immigration authorities.

For Petitioner :Mr.S.Thiruvengadam

For Respondents :Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)



Crl.O.P.No.7946 of 2024

ORDER

This Criminal Original Petition to quash the Calender Case is of the year 2013 pending on the file of the Judicial Magistrate No.1, Poonamallee. After disposal of Crl.O.P.No.11035 of 2013 on 31.01.2018, four accused persons got quashed. The remaining accused is the petitioner herein, who is none other than the erstwhile husband of the defacto complainant. This petitioner earlier approached this Court by way of filing Crl.O.P.No.10130 of 2018 to quash the case against him. However, this Court, without going into the merits of the case directed the trial Court to expedite the trial in C.C.No.42 of 2013 and complete the same, within 6 months from the date of receipt of a copy of that order. The appearance of the petitioner before the trial Court was dispensed with, except on crucial hearings like, receiving copies under Section 207 of Cr.P.C., framing of charges, questioning under Section 313 of Cr.P.C and the date of judgment and as and when the trial Court feels it necessary and that petition was disposed of with the above direction on 13.07.2021 and there was no impediment to proceed with the trial and complete it within a period of six months as directed by this Court. However, the Judicial Magistrate No.1, Poonamallee, has not completed the trial as directed by this Court. This has forced the petitioner herein to approach the Court to quash the case narrating why it will not complete the trial.



Crl.O.P.No.7946 of 2024

2. The learned counsel appearing for the petitioner states that PW-1 and PW-2, who were summoned to give evidence, had not co-operated with the trial. In fact, PW-1 who mounted the witness box even without completing the cross examination had got discharged from examining further. On some pretext, the case was adjourned from 02.11.2023 to 03.11.2023, but she did not turn up on that day. From that day onwards, continuously for 9 hearings, she did not attend the court and similarly, PW-2 had also not turned up in spite of summons and the trial Court, without considering the direction of this Court dated 13.07.2021 has been frequently adjourned the case without insisting on the pronouncing of the petitioner to close the case for non prosecution. The learned counsel furnished the daily status report of the case for the past 9 hearings. When the learned Judicial Magistrate, on 11.03.2024 the case was taken up, has recorded, the accused present. PW-1 witness warrant pending. Issued fresh summon to PW-1, adjourned to 03.04.2024. On 03.04.2024, when the matter was taken up for hearing again, the witness was not present and the accused was present and the case was adjourned to 08.05.2024. Therefore, the present petition to quash the case in C.C.No.42 of 20213 has to be entertained.



Crl.O.P.No.7946 of 2024

3. This Court is of the view that since the trial has commenced and it has reached a logical end and at the same time, this Court also take into note of the non-co-operation of the defacto complainant and her mother, some ulterior motive, the delay is caused. Hence, as a last chance, if the witness does not turn up on the next hearing date (i.e.) on 08.05.2024, the Judicial Magistrate shall close the calender case for non-prosecution under Section 258 of Cr.P.C. and dispose of the calender case exercising power under Section 258 of Cr.P.C stating the evidence of PW-1 and PW-2 could not be completed, so, the recording of evidence could not be completed due to their non-cooperation. Then, pronounce judgement of acquittal.

4. In case the witnesses are present, they may be examined on the same day and the trial must be completed on day to day basis by the end of May 31st 2024 without any excuse. With this observation, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

04.04.2024

Index:yes/no
Speaking order/non speaking order
Neutral Citation:yes/no
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To:

- 1.The Judicial Magistrate I, Poonamallee.
- 2.Inspector of Police,W-28, All Women Police Station,
Ambattur, Chennai.



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DR.G.JAYACHANDRAN,J.

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