



Crl.O.P.No.6175 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P No.6175 of 2024

Udayakumar

...Petitioner

Vs.

Karunakaran

...Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to set aside the onerous condition imposed in the order dated 23.2.2024 in Crl.MP.4960/2023 on the file of the District and Sessions Court, Vellore.

For Petitioner : Mr.Sivavarthanan

For Respondents : Mr.A.Damodaran, APP

ORDER

This Criminal Original petition has been filed challenging some of the conditions there were imposed by the Court below while ordering the transfer petition filed by the petitioner in Crl.MP.4960/2023 on the file of the District and Sessions Court, Vellore.



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2. This Court has carefully heard the learned counsel for the petitioner and perused the materials available on record.

3. The petitioner was undergoing trial before the learned Judicial Magistrate, Ambur for offence under Section 138 of the Negotiable Instruments Act. The petitioner had filed a transfer petition before the Court below on certain grounds. The Court below after considering the facts and circumstances of the case and the grounds raised by the petitioner was inclined to transfer the case from the file of the learned Judicial Magistrate, Ambur, to the learned Judicial Magistrate IV, Vellore. However while ordering such transfer, the Court below had imposed certain conditions. The petitioner is aggrieved by the following conditions that were imposed by the Court below and has filed this Criminal Original petition.

l ii. The petitioner / accused and the respondent / complainant should appear in all the hearings along with their counsel for disposal of the case and the accused should pay hearing cost of Rs.1,500/- to the complainant.

i v. If respondent / complainant fails to appear along with



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their counsel, the petitioner / accused should pay cost of Rs.1,500/- to the respondent / complainant counsel to proceed the case before the Judicial Magistrate No.IV, Vellore, for effective hearing and on that day, the accused shall produce his witness and also he would be ready for argument for the disposal of the two petitions one for re-open and another for examining the accused under Section 315 of Cr.PC.

V. In the event if the petitioner / accused would not appear and her counsel only appears and file a petition under Section 317 of Cr.PC that petition may be considered by the transferee Court with cost of Rs.3,000/-and the cost may be paid to the complainant and there must be an effective hearing even on that day by accused side counsel.

vi. In the event the accused fails to pay the cost before commencement of hearing, the Judicial Magistrate No.IV Vellore is directed to dispose the case from available records by taking adverse inference against the accused.

Viii. Considering the facts and circumstances that the



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petitioner / accused filed this transfer OP cost of Rs.10,000/- is ordered to the complainant and the accused has to pay the same before the Judicial Magistrate No.IV, Vellore without fail on 04.03.2024.

4. In the considered view of this Court, the Court below after being satisfied that a case has been made out for transfer, need not have imposed so many conditions against the petitioner. This is more so due to the fact that apart from this case, there are two other connected cases filed by the respondent / complainant against the petitioner and her husband. In view of the above, the condition No.3, 4, 5 and 6 are found to be unwanted and the same is hereby set aside. The cost of Rs.10,000/- is reduced to Rs.5,000/- and the petitioner is directed to deposit the same before the learned Judicial Magistrate No.IV, Vellore within a period of two weeks from the date of receipt of a copy of this order.

5. The learned Judicial Magistrate IV, Vellore is directed to get a bond from the petitioner under Section 88 of Cr.PC. The other



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conditions imposed by the Court below shall stand as it is.

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6. This criminal Original petition is disposed of in the above terms.

11.03.2024

Index : Yes/No
Internet : Yes/No
Speaking Order :Yes/No
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To

1. Judicial Magistrate IV, Vellore
2. Judicial Magistrate, Ambur
- 3.The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH,J



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