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CrI.O.P.No. 11264 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.05.2024

CORAM

THE HON'BLE MR. JUSTICE K. KUMARESH BABU

Criminal Original Petition No. 11264 of 2024

1.Gokulnath

2.Suganya @ Suganya Calist

..Petitioners/A1&A2

Versus

The State,

Represented by

The Inspector of Police,

K-8, Arumbakkam Police Station

... Respondent

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, prays to set aside the order dated 04.04.2024 in CrI.M.P.No. 20195 of 2024 in C.C.No. 1807 of 2018 pending before the learned V Metropolitan Magistrate, Egmore, Chennai.

For Petitioners : Mr. R. Rajan

For Respondent : Mr.L. Baskaran

Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition is filed seeking to set aside the order dated 04.04.2024 made in CrI.M.P.No. 20195 of 2024 in C.C.No.



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1807 of 2018 passed by the learned V Metropolitan Magistrate, Egmore, Chennai, whereby, the Non-Bailable Warrant was issued against the petitioners.

2. The learned Counsel for the petitioners would submit that the petitioners had filed a discharge petition in CrI.M.P.No. 6594 of 2018, in which orders were reserved as early as on 11.01.2022 and thereafter, no order has been passed by the learned Judge. In fact, he had disclosed the same with clarification on both occasions. The learned Counsel for the petitioners had also submitted that he made his arguments even after a period of two years, and no order has been passed. Since no order has been passed, the matter has been repeatedly adjourned. The petitioners had filed an application for dispensing with the appearance as they were not required on the particular date. However, the learned Judge dismissed the petition without assigning any reason and Non-Bailable Warrant was also issued against the petitioners. There was no necessity to dismiss the petition filed under Section 317 CrPC by the learned Judge on the particular date, as the proceedings have been repeatedly adjourned as the orders have been passed in the discharge petition. Therefore, he seeks indulgence of this Court to set aside the order and the Non-Bailable



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Warrant issued against the petitioners. As pointed out by the learned Counsel for the petitioners, it is seen from the proceedings have been produced by the petitioners today, in CrI.M.P.No. 6594 of 2018 filed by the petitioners, i.e. in the discharge petition, orders were reserved on 11.01.2022 and the same is yet to be pronounced by the Court below. In spite of posting the matter for clarification on two earlier occasions, the conduct of the Court below requires to be deprecated.

3. Further, when the matter had come up for hearing on 22.02.2024, in view of the pendency of the Criminal Miscellaneous Petition for discharge, the case had been adjourned to 04.04.2024, and there was no indication of any proceedings on 04.04.2024. Also, the Criminal Miscellaneous Petition had not been disposed of but the Court below dismissed the petition filed under Section 317 CrPC and issued Non-Bailable Warrant against the petitioners 1&2. The order of dismissal is very cryptic and reason was not assigned by the Court below.

4. The order dated 04.04.2024 dismissing the petition u/s.317 CrPC., is set aside and further Non-Bailable Warrant issued by the Court below against the petitioners, is recalled. It is also further observed that the petition for discharge was reserved for orders on 11.01.2022 and



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thereafter, nothing has been done by the Court below and the matter was repeatedly adjourned, in view of the pendency of the Criminal Miscellaneous Petition. It is also to be noted that the case had been further adjourned to 29.08.2024. The appearance of the petitioners shall be dispensed with by the Court below till the orders are passed in the application for discharge petition filed by the petitioner in Crl.M.P.No. 6594 of 2018.

5. Accordingly, the Criminal Original Petition is allowed.

6. Registry is directed to call for explanation from V Metropolitan Magistrate, Egmore, Chennai, as to why even though the orders have already been reserved as early as on 11.01.2022, no order has been passed till date and such report shall be placed before this Court on or before **03.06.2024.**

09.05.2024

Index: Yes / No
Internet: Yes / No
Speaking / Non-Speaking order
msm



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To

1. The State,

Represented by
The Inspector of Police,
K-8, Arumbakkam Police Station
Chennai.

2. The Public Prosecutor, High Court, Madras.



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K. KUMARESH BABU, J

MSM

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