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CrI.O.P.No.29749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.29749 of 2024

V.Balamurugan

... Petitioner

Vs.

Kanchana Janarthanan

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the docket order passed in C.C.No.7 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court No.1 @ ML, Coimbatore dated 01.04.2024 and allow this petition.

For Petitioner : Mr.T.Shanmugaboopathi

ORDER

This Criminal Original Petition is filed to set aside the docket order dated 01.04.2024 passed in C.C.No.7 of 2011 on the file of the Judicial Magistrate, Fast Track Court No.1 @ Magisterial Level,



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Coimbatore.

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2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. This is a matter of the proceedings under Section 138 of the Negotiable Instruments Act. The respondent is the complainant and the petitioner is the accused. After taking all efforts, as the petitioner/accused did not appear before the trial Court, the respondent/complainant proceed to serve notice by substituted service and the petitioner called absent. Hence, the Court below, after examination of C.W.1 to C.W.3 and on considering Ex.C1 to Ex.C8, declared the accused as a "proclaimed offender" vide order dated 01.02.2024 and also warrant of attachments of immovable property, had also been issued. In spite of paper publication having been effected, the petitioner did not turn up to appear before the Court below and hence, the learned Magistrate, after satisfying with the proclamation proceedings, passed the impugned docket order and converted C.C.No.7 of 2011 as Long Pending Case No.1 of 2024 and also issued proclamation declaration and Non Bailable Warrant against the accused.



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Challenging the same the present petition is filed.

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4. Learned counsel for the petitioner submitted that the petitioner has not received any summons from the trial Court and that is the reason he was not able to appear before the trial Court. He further submitted that only issuance of attachment proceedings, the petitioner came to know about the impugned order. Now, the petitioner undertakes to appear before the trial Court regularly without fail in future and ready and willing to co-operate with the trial proceedings.

5. In view of the above undertaking, the petitioner is at liberty to approach the concerned Court in the manner known to law. In case, the petitioner approaches the trial Court, it is for the trial Court to record the non-compliance of the summons/warrant if any issued to the petitioner in pending C.C.No.7 of 2011 and appropriate orders be passed on merits and in accordance with law.

6. With above observations and directions this Criminal Original Petition is dismissed.

27.11.2024

Index : Yes/No

Neutral Citation Case : Yes/No



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Speaking Order : Yes/No
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To

The Judicial Magistrate,
Fast Track Court No.1 @ Magisterial Level,
Coimbatore.



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P.VELMURUGAN, J

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