SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Mandeep Singah Vs. State Represented by the Deputy Superintendent of Police, Chennai

Mandeep Singah Vs. State Represented by the Deputy Superintendent of Police, Chennai

SooperKanoon Citation : sooperkanoon.com/1189692

Court : Chennai Madurai

Decided On : Jul-20-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : Crl.O.P.(MD) No. 12244 of 2016

Appellant : Mandeep Singah

Respondent : State Represented by the Deputy Superintendent of Police, Chennai

Judgement :

(Prayer: Criminal Original Petition is filed, under Section 482 of Cr.P.C., to condone the absence of the petitioner before the Special Judge for CBI Cases, Madurai on 01.06.2016, as per the order dated 22.12.2008 made in M.P.(MD).No.2 of 2008 in C.A.No.205 of 2008.)

1. As against the dismissal of petition filed under Section 317 of Cr.P.C., to condone his absence on 01.06.2016 in Cr.M.P.No.1337 of 2016 in C.C.No.9 of 2005 on the file of learned Special Judge for CBI Cases, II Additional District Court, Madurai, this petition has been filed under Section 482 of Cr.P.C., by the accused.

2. According to the learned counsel for the petitioner, because of reasons beyond his control, the petitioner could not present himself on the said hearing date and he has filed a petition under Section 317 Cr.P.C., to condone his absence. As the trial Court could not overtake the directions of this Court it has dismissed the petition.

3. The learned Special Public Prosecutor for CBI Cases submitted that the petitioner has failed to attend for the one hearing. Next date of appearance before the trial Court is 01.08.2016.

4. I have considered the submissions of both sides and perused the impugned order as well as the materials on record.

5. While granting bail in M.P.(MD).No.1 of 2008 in Crl.A.(MD).No.205 of 2008, on 25.04.2008, this Court directed the petitioner to appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m. until further orders. Subsequently, in M.P.(MD).No.2 of 2008 in Crl.A.(MD).No.205 of 2008, the said condition was modified to the effect that he shall appear before the said Court once in two months until further orders. He was complying the said condition. On 01.06.2016, as he could not appear, because of certain reasons beyond his control, through his counsel he has filed a petition under Section 317 of Cr.P.C., to condone his absence on that day.

6. The trial Court dismissed the petition holding as under:

Heard. The petition 317 filed by the petitioner is not maintainable. Hence this petition is dismissed.

Pronounced by me in the open Court on this the 1st day of June 2016.

7. The trial Court having noticed that the condition has been imposed by this Court it was of the view that such condonation has to be obtained from this Court. It imposes some practical difficulty. Sometimes, when petitions under Section 317 Cr.P.C., are dismissed, the consequent will be enforcing the attendance of the accused, sometimes by issuing N.B.W. The problem arises, because of the reason that the condition has been imposed by this Court and the trial Court, even if it

founds a genuine reason to condone the absence, it could not condone it, as it has happened in this case. This kind of practical difficulties need to be obviated. Therefore, in such circumstances, in fit and genuine case, after giving an opportunity to the prosecution, if power is given to the trial Court to condone the absence on a petition filed under Section 317 of Cr.P.C., that will serve the purpose and also will advance the cause of justice and it will also avoid danger of N.B.Ws. being issued in such contingency and driving the accused to approach the High Court to file a Criminal Original Petition under Section 482 Cr.P.C. Further, the trial Judge being Judge on the spot he knows the reality of the situation, whether the accused is acting or really the reason given by him is justified whereas, we do work here only on paper work.

8. In view of the above, it is ordered as under:

(1) The impugned order dated 01.06.2016 passed by the learned Special Judge for CBI Cases (II Additional District Judge), Madurai in Crl.M.P.No.1337 of 2016 is set aside.

(2) The said petition filed under Section 317 of Cr.P.C. Stand allowed.

(3) The absence of the accused on 01.06.2016 is condoned.

(4) As and when a petition under Section 317 of Cr.P.C., has been filed by the petitioner/accused and the trial Court found the reasons stated are justified, after giving an opportunity to the prosecution, it can dispose of the said petition under Section 317 of Cr.P.C., filed by the petitioner according to law.

Accordingly, this Criminal Original Petition is disposed of.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com