

(2001) 08 MAD CK 0079

In the Madras High Court

Case No : Criminal R.C. No. 1017 and 1018 of 2001

R. Krishnasamy

APPELLANT

Vs

K.P. Anirudhan

RESPONDENT

Date of Decision : 10-08-2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 317

Citation : (2001) 4 RCR(Criminal) 394

Hon'ble Judges : Malai Subramanian, J

Bench : Single Bench

Advocate : Mr. Ravindran, for V. Viswanthan, for the Appellant;

Judgement

1. The petitioner in both the cases is one and the same. On one hearing he was absent. Though a petition u/s 317, Cr.P.C. was filed, it appears,

the learned Magistrate refused to condone his absence, but chose to issue N.B.W. Thereafter, a petition to recall the warrant was filed by the

petitioner in both the cases, without making his appearance. It seems the petition was dismissed. Therefore, these revisions.

2 . This Court time and again is telling the trial courts not to be harsh in condoning the absence of the accused for valid reasons u/s 317, Cr.P.C. It

is a benevolent provision that has to be liberally used, unless, it has to be refused for valid reasons. Unfortunately, because of such a refusal, the

trial is delayed and the accused has to come before this court and get an order. Though, this Court is not inclined to interfere with the issuance of

non bailable warrant, it is only in the nature of advice to the trial court not to indulge in such wholesale dismissal of the petitions filed u/s 317

Cr.P.C.

3. Taking into consideration the relevant aspects, the petitioner is directed to appear before the concerned Court on 13th August, 2001 to which date, I am told, the case stands posted and then file an application for recall of non bailable warrant and the learned Magistrate is also directed to take a lenient view in the matter and dispose of the petition on the same day. The purpose of issuance of warrant is only for procuring the accused to face the trial and it is not to harass the accused.
4. With the above direction, the petitions stand disposed of .