

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.13533 of 2016

R.Chandrasekaran

.. Petitioner

Vs

The State by
The Inspector of Police,
Tindivanam Town Police Station,
Villupuram District.

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the learned Judicial Magistrate-II, Puducherry, to consider and pass orders on merits on the same day of filing the petition under section 70(2) of the Cr.P.C for recall of the NBW issued on 29.05.2015 in STR.No.4700 of 2012 on the file of the learned Judicial Magistrate-II, Puducherry.

For Petitioner : Mr.M.Arumugam
For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to direct the learned Judicial Magistrate-II, Puducherry, to recall the petition of non bailable warrant issued on 29.05.2015, pending in STR.No.4700 of 2012 on the file of the learned Judicial Magistrate-II, Puducherry, on the same day.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. It is seen that this petitioner is facing prosecution in STR.No.4700 of 2012 for the offence under Section 138 of the Negotiable Instruments Act. It is also seen that the case was posted on 29.05.2015 for defense side evidence, on which date, the petitioner did not appear on account of which, non-bailable warrant has been issued.

4. It is the case of the petitioner that he is suffering renal failure and had undergone kidney transplantation, on

account of which, he was not able to present before the trial Court on 29.05.2015, nor he was able to instruct his counsel to file an application under Section 317 Cr.P.C.

5. It is apparent that though the warrant was issued as early as 29.05.2015, the police have not arrested the petitioner. If the warrant is kept pending, it will only further protract the trial. Under such circumstances, this Court is of the view that it will be in the fitness of things, if the petitioner surrenders before the learned Judicial Magistrate-II, Puducherry, within two weeks from the date of receipt of a copy of this order, and on such surrender, he shall file a bail application under Section 436 Cr.P.C., The learned Judicial Magistrate is directed to release the petitioner on bail on the same day, on the petitioner executing a bond for Rs.10,000/- with two sureties to the satisfaction of the learned Judicial Magistrate-II, Puducherry. Thereafter, the petitioner shall co-operate with the conduct of the trial. If the petitioner fails to co-operate with the trial, the trial Court is at liberty to remand the petitioner to custody as held by the Hon'ble Supreme Court in State of Uttar Pradesh v. Shambjunath Singh [JT 2001 (4) SC 319]. The trial Court is directed to complete the trial within three months from the date of receipt of a copy of this order. Boycott of Courts shall be no reason for this petitioner to avoid compliance with the orders passed by this Court.

6. With the above direction, this Criminal Original Petition is closed.
ds

s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police,
Tindivanam Town Police Station,
Villupuram District.

2.The Public Prosecutor,
High Court, Madras.

+ 1 cc to M/s.M.Arumugam, Advocate SR 36738

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