

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.24241 of 2016

K.Palani

... Petitioner/Accused

-Versus-

M.Chandrasekar Reddiyar

... Respondent/Complainant

Prayer: This petition is filed under Section 482 Cr.P.C. praying to direct the learned Judicial Magistrate, Tindivanam, to consider and pass orders on merits on the same day on filing the petition under Section 70(2) of Cr.P.C. for the recall of the bailable warrant issued on 14.03.2013 in C.C.No.54 of 2011 on the file of the learned Judicial Magistrate No.I, Tindivanam, Villupuram District.

For Petitioner : Mr.A.Vinoth Kumar

ORDER

For the sake of convenience the parties in this proceedings will be referred to by their respective name.

2. M.Chandrasekar Reddiyar has initiated a prosecution in C.C.No.54 of 2011 before the learned Judicial Magistrate, Tindivanam, for offence under Section 138 of The Negotiable Instruments Act against K.Palani and the case is now pending trial. It appears that K.Palani appeared before the trial court and later, he did not appear on account of which, the trial court has issued a bailable warrant on 14.03.2013. Seeking to recall the bailable warrant K.Palani is before this court with the present petition.

3. Under ordinary circumstances, this court would not entertain such a request inasmuch as the prosecution is of the year 2011, bailable warrant was issued in the year 2013 and the present petition has been filed only in the year 2016. This shows that Palani has scant regard for the process of court. It is also seen that the police has not been able to execute the warrant and the case is pending without any progress.

4. Under the above circumstances, the petitioner is directed to surrender before the learned Judicial Magistrate, Tindivanam, Villupuram District, within a period of two weeks from the date of receipt of a copy of this order and on his surrender and filing appropriate petitions, the same shall be considered on the same day and he shall be released on bail under Section 436 of Cr.P.C. on his executing a bond for a sum of Rs.25,000/- with two sureties each for a like sum of which one surety should be a blood relative to the satisfaction of the Judicial Magistrate, Tindivanam. The petitioner/accused or the counsel appearing on his behalf shall cross examine the witnesses on the same day when they are examined in chief as held by the Hon'ble Supreme Court in Vinod Kumar v. State of Punjab, 2015 (3) SCC 220. If the accused adopts any dilatory tactics, it is open to the trial court for remanding him to custody under Section 309 of Cr.P.C., as held by the Supreme Court in State of U.P. v. Shambhu Nath Singh, reported in 2001 (4) SCC 667. If the petitioner/accused thereafter absconds, a fresh FIR shall be registered under Section 229-A of IPC.

5. In the result, this criminal original petition is dismissed with the above directions.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kmk

To

- 1.The Judicial Magistrate No.I,
Tindivanam, Villupuram District.
- 2.Do through The Chief Judicial Magistrate,
Villupuram.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Arumugam, Advocate, S.R.No.64042

Cr1.O.P.No.24241 of 2016

GR(CO)
CA(08/12/2016)