



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.GOKULDAS

Cr1.Rc.(MD).No.661 of 2016

WEB COPY

Karnan @ Karunanidhi

.. Petitioner/Petitioner/Accused No.5

Vs.

State through by
The Inspector of Police,
E.1, K.Pudhur Police Station,
Madurai City,
In Crime No.1017 of 2015,
Madurai District.

.. Respondent/Respondent/Complainant

Prayer:-Criminal Revision case is filed Section 397 r/w 401 Cr.P.C. to call for the records pertaining to the Cr.M.P.No.3691 of 2016 in P.R.C.No.52 of 2016, dated 15.09.2016 on the file of the Judicial Magistrate Court No.VI, Madurai and set aside the same consequently recall the non bailable warrant issued against the petitioner by Judicial Magistrate Court No.VI, Madurai, dated 14.09.2016 in P.R.C.No.52 of 2016.

For Petitioner : Mr.N.Ilango

For Respondents : Mr.Kandasamy

Government Advocate (Criminal Side)

ORDER

This Criminal Revision Case is filed to quash the proceedings, dated 15.09.2016, passed in Cr.M.P.No.3691 of 2016 in P.R.C.No.52 of 2016, by learned Judicial Magistrate No.VI, Madurai, and to recall the NBW, dated 14.09.2016, issued against the petitioner by the said Court.

2. Heard both sides.

3. The petitioner is arrayed as A5 in Cr.No.1017 of 2015 for the offences punishable under Sections 341, 294(b), 307, 120(b), 506(ii) r/w 34 and 149 I.P.C. After investigation, charge sheet was filed and the same was taken cognizance in P.R.C.No.52 of 2016 by the learned Judicial Magistrate Court No.VI, Madurai. The petitioner was regular in attending all the hearings. While so, it is the case of the petitioner that, on 14.09.2016, due to ill health, he was not able to attend the Court and he also filed a petition under Section 317 Cr.P.C. seeking to condone his presence by considering his ill health and he has also produced a Medical Certificate in support of his claim. However, the Trial Court dismissed the said petition and issued an NBW against the petitioner. Thereupon, he filed a petition under Section 70(2) Cr.P.C. to recall the NBW issued against him, without appearing before the Trial Court. The learned Trial Judge dismissed the said



petition, since the Trial Court expect the appearance of the petitioner. Hence, the present revision is filed.

4. The learned counsel for the petitioner submitted that the petitioner's absence on 14.09.2016, is neither wilful nor wanton, but purely due to his ill-health. That being so, the learned Trial Judge, without even considering the facts and circumstance of the case and the genuine request of the petitioner based on a valid medical certificate, hurried to dismiss the petition filed under Section 317 Cr.P.C. as well as the petition to recall the NBW, filed under Section 70(2) Cr.P.C., subsequently vide order, dated 15.09.2016. He further submitted that only on the apprehension of arrest, the petitioner would not appear at the time of filing of 70(2) Cr.P.C. petition, now the learned counsel also undertook that his client would appear for future hearings without fail.

5. Considering the above submissions made by the learned counsel for the petitioner, this Court is inclined to accede to the prayer of the petitioner. Consequently, the order passed by the Trial Court in Cr.M.P.No.3691 of 2016 in P.R.C.No.52 of 2016, dated 15.09.2016, is set aside and the petitioner is directed to appear before the Trial Court on 17.10.2016, on which date, the Trial Court shall recall the NBW issued against the petitioner and furnish the copies to be received by him. It goes without saying, as undertaken before this Court, the petitioner shall be prompt in appearing before the Trial Court on all hearing dates without fail.

6. The criminal Revision Case is allowed to the extent indicated above.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.VI,
Madurai.

2.The Inspector of Police,
E.1, K.Pudhur Police Station,
Madurai City,
Madurai District.

+1cc to M/s.N.Ilango, Advocate SR.No.55001

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