

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.3158 of 2017

Shanthi ... Petitioner /Accused

Vs

1.Bama Balaji ...Respondent No.2/Complainant

2.The Inspector of Police,
J-7, Velachery Police Station,
Velachery,
Chennai - 42. ... Respondents No.2/respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the IX Metropolitan Magistrate, Saidapet, Chennai to consider the recall petition filed by the petitioner under section 70(2) Cr.P.C on the same day in CC No.3602 of 2010 pending trial.

For Petitioner : Mr.K.G.Senthilkumar

For R2 : Mr.C.Emalias, APP

ORDER

The present criminal original petition has been filed to direct the learned IX Metropolitan Magistrate, Saidapet, Chennai to consider the recall petition filed by the petitioner in CC No.3602 of 2010 under section 70(2) Cr.P.C on the same day.

2. According to the petitioner, a private complaint was filed by the first respondent against her for the alleged offence punishable under Section 138 of the Negotiable Instruments Act and the same was taken on file as CC No.3602 of 2010 by the learned IX Metropolitan Magistrate, Saidapet, Chennai and is pending trial. Due to non-appearance of the petitioner before the trial court, a non-bailable warrant came

to be issued against her and is pending for execution by the second respondent herein. Hence, this petition.

3. Learned counsel for the petitioner submitted that due to unaware of the hearing date, the petitioner could not appear before the trial court at the time of hearing. As such, the non-appearance of the petitioner before the trial court is neither wilful nor wanton. Learned counsel further submitted that the petitioner undertakes to co-operate with the trial court for early disposal of the case.

4. I have also heard the learned Additional Public Prosecutor, who took notice for the second respondent.

5. Considering the facts and circumstances of the case and also taking note of the submissions made on either side, this Court directs the petitioner to appear before the learned IX Metropolitan Magistrate, Saidapet, Chennai by filing an application under Section 70(2) Cr.P.C to re-call the warrant issued in CC No.3602 of 2010 and on filing of such application, the learned Magistrate shall consider the same and pass appropriate orders on the same day.

6. Accordingly, this Criminal Original Petition is disposed of.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The IX Metropolitan Magistrate, Saidapet, Chennai.

2.The Inspector of Police,
J-7, Velachery Police Station,
Velachery, Chennai - 42.

3.The Public Prosecutor,
High Court, Madras - 104.

+1cc to Mr.K.G.SenthilKumar, Advocate SR.No.10289

Cr1.O.P.No.3158 of 2017

SDR 08.03.2017