

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Crl.O.P.No.6948 of 2017

M.Chinnamani

... Petitioner

Vs

State rep. by
Inspector of Police,
J3, Guindy Traffic Investigation,
Chennai - 600 032.

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the learned IV Metropolitan Magistrate, Saidapet, to accept the re-call non-bailable warrant petition in CC No.553 of 2012 on the file of the learned IV Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the learned IV Metropolitan Magistrate, Saidapet, Chennai to accept the petition praying to re-call non-bailable warrant issued against the petitioner in CC No.553 of 2012 pending on his file.

2. It is the case of the petitioner that on the basis of the complaint lodged by one Kishore @ Kishorekumar, the respondent police has registered a case in Crime No.11/S2/2012 against the petitioner, for the alleged offences punishable under Sections 279 and 338 IPC. After due investigation, charge sheet was filed before the learned IV Metropolitan Magistrate, Saidapet, Chennai and the same was also taken on file as CC No.553 of 2012. Subsequently, summons came to be issued to the petitioner. On receipt of the summons, the petitioner has been regularly attending the court proceedings. While so, due to jaundice, he was unable to appear before the trial court on 09.05.2017, on which date, a non-bailable warrant came to be issued against him. To recall the same, he filed a petition under Section 70(2) Cr.P.C, which was not considered by the

trial court, as the petitioner did not appear along with such petition. Hence, this petition.

3. Learned counsel for the petitioner submitted that due to ill-health of the petitioner, he did not appear before the trial Court on 09.05.2017, which is neither wilful nor wanton. However, without considering the same, the trial Court has dismissed the petition filed by the petitioner seeking to recall non-bailable warrant issued against him.

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

5. Having considered the facts and circumstances of the case and taking note of the submissions made on either side, this Court directs the petitioner to appear before the learned IV Metropolitan Magistrate, Saidapet, Chennai by filing an application under Section 70(2) Cr.P.C to re-call the warrant issued in CC No.553 of 2012 and on filing of such application, the learned Magistrate shall consider the same and pass appropriate orders on the same day.

6. This Criminal Original Petition is disposed of accordingly.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The IV Metropolitan Magistrate,
Saidapet, Chennai.

2.Do through the Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Inspector of Police,
J3, Guindy Traffic Investigation,
Chennai - 600 032.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.21508

CrI.O.P.No.6948 of 2017

RJ(CO)
CA(22/05/2017)