

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2017

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.13306 of 2016

M/s. Dominion Power Systems Pvt. Ltd.
rep. by its Director Mr.S.Joseph
Chennai.

... Petitioner

Vs

State rep. by
The Inspector of Police,
C-1 Flower Bazaar Police Station,
Parrys, Chennai 600 001.

... Respondent

Prayer : Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent police to secure the accused Prakash Bhatia in C.C.No.14 of 2010 on the file of the learned Judicial Magistrate, Alandur.

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For Petitioner : Mr. Shaikh Mehrunisa

For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking a direction to the respondent police to execute the Non-Bailable Warrant issued as against the accused/first respondent.

2. This Court in an earlier occasion had elaborately dealt with the issue as to whether the High Court, exercising its inherent powers under Section 482 of the Code of Criminal Procedure, is empowered to quash or recall a Non-bailable Warrant when an alternate remedy under Section 70 (2) of the Code of Criminal Procedure empowers cancellation of the warrant by the court that had issued the warrant.

3. After analysing the principles laid down in the various decisions of the Honourable Supreme Court in detail, this Court in the order dated 07.09.2017 in CrI.O.P.No.13276 of 2017 etc., batch, has held as follows:

18. It is also brought to my notice that apart from various other reasons for the long pendency of cases before the trial Courts, the non execution of Non Bailable Warrant is one among the reasons. This fact is reiterated through the last data collected by the NCRB. In most of these pending cases, it is seen that whenever a Non Bailable warrant is kept pending execution, the

usual practice among many of the Court is to adjourn the case on the ground that "Non Bailable Warrant is pending".

19. In heinous crimes, where there is deliberate and continuous non appearance of the accused, the trial Court may proclaim him as person absconding under Section 82 of the Code of Criminal Procedure.

20. Thus, under Section 82 of Cr.P.C., there can be no impediment on the part of the trial Court to pronounce him as a proclaimed offender, instead of keeping the matter pending indefinitely for the purpose of having the warrant executed. Hence, the existence of the fourth category of cases cannot be a ground to preclude the High Court to do justice in the first three categories particularly, when they constitute a major portion of the pending cases in the State of Tamil Nadu, in which, Non Bailable Warrants are pending execution.

21. To sum up the findings rendered by me, it is reiterated that the issuance of Bailable Warrant or Non Bailable Warrant should be exercised with extreme caution and in the rarest of cases, bearing in mind that the pendency of Non Bailable Warrant is one of the major factors for the long pendency of cases before the trial Court. The trial Court shall

also scrupulously follow the guidelines imposed in Inder Mohan Gowsami's case (supra) as well as the observations made in the present case while issuing Non Bailable Warrants or recalling the Non Bailable Warrants.

4. In the present case though the Non-bailable warrant was issued as early as on 18.04.2016, it has been kept pending without execution till date. In view of the observations made in the earlier order extracted above it would be appropriate to re-call the warrant issued by the Trial Court.

5. Hence, this Criminal Original Petition stands allowed. Bailable warrant issued on 18.04.2016 is recalled. Consequently, the accused is directed to appear before the learned Judicial Magistrate, Alandur in C.C.No.14 of 2010 forthwith and on subsequent hearing dates without fail.

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07.09.2017

Index:Yes
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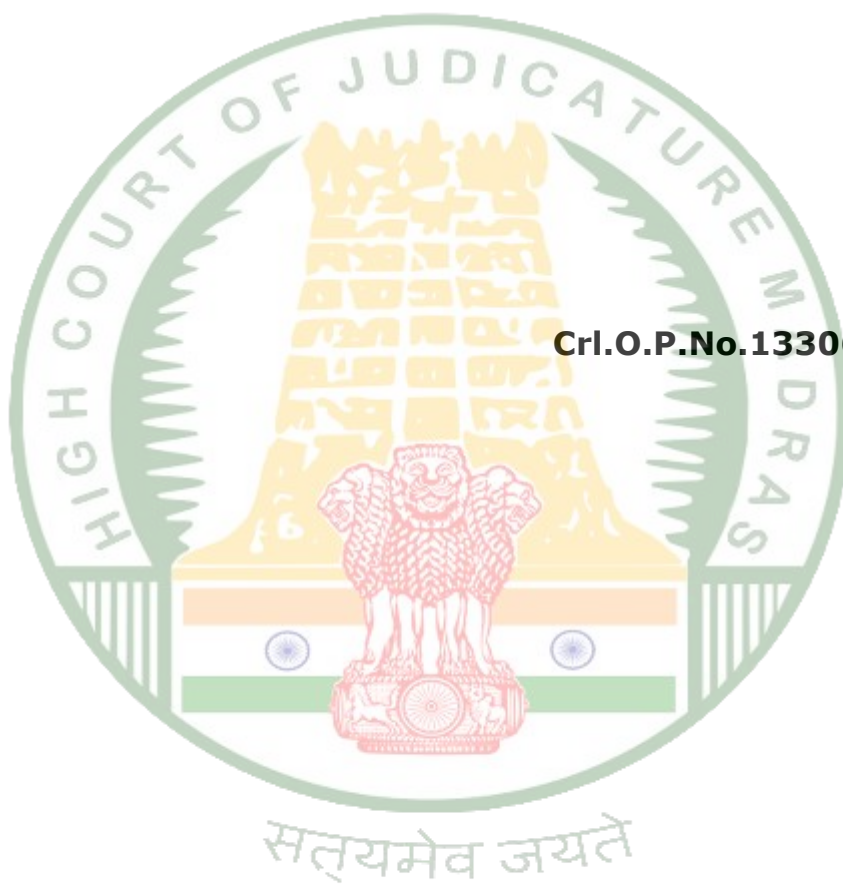
To

- 1.The Judicial Magistrate,
Alandur.
- 2.The Inspector of Police,
C-1 Flower Bazaar Police Station,
Parrys, Chennai 600 001.
- 3.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.



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