



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2017

CORAM

**THE HON'BLE MR. JUSTICE P.N. PRAKASH**  
**Crl.O.P. (MD) No.3870 of 2017**

WEB COPY

T.Auswin Suresh

... Petitioner

-vs-

1.State represented by  
Inspector of Police,  
Srivilliputhur Town Police Station,  
Virudhunagar District.

... Respondent

2.Ramanad District Sarvodaya  
Sangh, 68 Kanthadi Street,  
Srivilliputhur,  
Through its Secretary,  
Inbaraj S/o Joseph

... 2<sup>nd</sup> Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Fast Track Court (Cheque case) Srivilliputhur to consider the application of the petitioner to recall the non bailable warrant issued against the petitioner dated 11.03.2011 in C.C.No.80 of 2011 on the same day.

For Petitioner : Mr.L.J.Soundararajan

For Respondent : Mr.A.P.Balasubramani

Government Advocate (Crl. side)

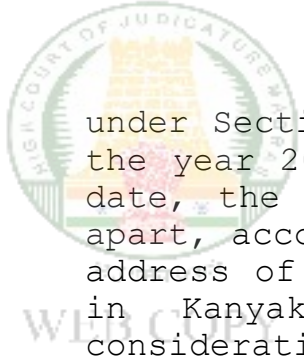
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**O R D E R**

For the sake of convenience, the parties are referred to as complainant and the accused.

2. The complainant has initiated a prosecution in C.C.No.125/2006 under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate, No.II, Srivilliputhur. Later, the case was transferred to the file of Fast Track Court (Magisterial Level) Srivilliputhur and is renumbered as C.C.No.80/2011. According to the accused, he did not receive any summons from the Court and now, he understands that the learned Judicial Magistrate, Fast Track Court, Srivilliputhur has issued a non bailable warrant on 11.03.2014 and the same is pending. Therefore, the petitioner is before this Court for a direction to the Judicial Magistrate, to recall the warrant.

3. Under ordinary circumstances, a petition under Section 482 of the Code of Criminal Procedure cannot be entertained for recalling of warrant, as there is a remedy provided under the Code



under Section 70(2). In this case, the complaint has been filed in the year 2006 and the warrant was issued in the year 2014 and till date, the police have not been able to execute the warrant. That apart, according to the accused, the complainant had given a Madurai address of the accused, but, whereas, the accused lives permanently in Kanyakumari District. Taking all these aspects into consideration, this Court directs the accused to surrender before the Judicial Magistrate, Fast Track Court, Srivilliputhur within two weeks from the date of receipt of a copy of this order. On such surrender, the warrant against him shall be recalled and he shall be released on bail under Section 436 of the Code of Criminal Procedure, on he executing a bond for Rs.10,000/- with two sureties to the satisfaction of the Magistrate. The petitioner shall give his permanent address. Thereafter, if the petitioner absconds, a fresh FIR can be registered against the petitioner under Section 229 (A) of the Indian Penal Code.

With the above direction, this criminal original petition is disposed of.

Sd/-

Assistant Registrar (Protocol)

/True copy/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate, Fast Track Court, Srivilliputhur
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
- 3.The Judicial Magistrate No.II,  
Srivilliputhur, Virudhunagar District.

+1 CC to M/s.L.J.SOUNDARARAJAN, Advocate, SR No. 50365

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PSM/RR/SAR2/19.04.2017/2P/5C

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