



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

CORAM

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THE HON'BLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD) No.6536 of 2017

P.Sethuramalingam

... Petitioner/Accused

-vs-

S.Periyasamy

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the learned Judicial Magistrate, NO.I, Karur to recall the non bailable warrant in STC No.249/2016 on the file of the Judicial Magistrate, No.I, Karur.

For Petitioner : Mr.A.Arun Prasad

ORDER

It is seen that this petitioner is facing the prosecution for an offence under Section 138 of the Negotiable Instruments Act in STC No.249 of 2016 before the Judicial Magistrate, No.I, Karur. Admittedly, the petitioner appeared before the trial Court for the first hearing on 24.03.2016 and had engaged an Advocate. Since the petitioner did not appear on 04.08.2016, non bailable warrant has been issued for securing the petitioner. Therefore, the petitioner is before this Court with the above prayer.

2. In the opinion of this Court, non bailable warrant issued by the trial Court cannot be recalled in exercise of the power under Section 482 Cr.P.C, in view of Section 70 of the Code of Criminal Procedure, which empowers the Court, which had issued non bailable warrant to recall the same. However, it is seen that the non bailable warrant has been issued on 24.03.2016 and till date, the police have not been able to execute the non bailable warrant and arrest the petitioner. On account of this, the trial before the trial Court would not have progressed. Under such circumstances, this Court directs the petitioner to surrender and deposit Rs.1 lakh before the trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, he shall file a bail application, which may be considered on the same day. The deposit amount shall be kept in a fixed deposit to be decided at the culmination of the trial. If thereafter, the



petitioner absconds, fresh FIR can be registered against him under Section 229(A) IPC.

With the above direction, this petition is closed.

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Sd/-

Assistant Registrar(Co)

/True copy/

Sub Assistant Registrar

To:

The Judicial Magistrate, No.I,
Karur

RR

AE/SKN RSK/SAR4/29.06.2017/2P/2C

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