

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2018

CORAM:

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

CrI.O.P.No.10337 of 2018

L.Rajendran

.. Petitioner

vs.

S.T.S.Balaji

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to direct the learned Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai to consider the Recall-Warrant petition to be filed by the petitioner on the same day in the event of surrender by the petitioner and to Recall the Non-Bailable Warrant issued in C.C.No.6299 of 2013 pending on the file learned Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai.

For petitioner .. Mr.R.Thiagarajan
For respondent .. Ms.P.Kritika Kamal
Government Advocate
(Criminal Side)

ORDER

The petitioner is facing prosecution under Section 138 of the Negotiable Instruments Act before the learned Metropolitan Magistrate, Fast Track Court-III, Saidapet, Chennai.

2.It is the case of the petitioner that the bundle went missing and the case was not called on 05.01.2016. However, it is the case of the petitioner that he was diligently appearing before the Court upto 05.01.2016. Thereafter, he did not appear before the Court. The bundle was traced on 21.01.2016 and a Non Bailable Warrant was issued against the petitioner on 02.09.2016. Hence, the petitioner has filed the present petition before this Court to consider the recall warrant petition.

3.It is settled law that a warrant cannot be recalled under Section 482 of Cr.P.C. Hence, it is open to the petitioner to surrender before the trial Court and pray for recall of the warrant issued under Section 70(2) of Cr.P.C.

4.However, since the bundle had gone missing in this case, as it could be seen from reply dated 19.03.2018 under RTI Act, this Court directs the petitioner to surrender before the trial court within two weeks from the date of receipt of a copy of this Order.

5.On such surrender, the petitioner shall file a bail application under Section 436 Cr.P.C. and he shall be released on bail on executing the bond of Rs.10,000/- (Rupees Ten Thousand only) with two sureties on the same day. Thereafter, if the petitioner absconds, a fresh complaint can be filed against him under Section 229 (A) IPC.

The Criminal Original Petition is disposed of with the above directions.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

cla/lok

To

1.The learned Metropolitan Magistrate,
Fast Track Court-III,
Saidapet, Chennai.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thiagarajan, Advocate sr.no.24121

Cr1.O.P.No.10337 of 2018

nr 11/04/2018

सत्यमेव जयते

WEB COPY