



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.04.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No12489 of 2018

B.Chandran

.. Petitioner

Vs

The State rep. by
The Inspector of Police,
Kotagiri Police Station,
Nilgiri.

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order dated 11.04.2018 passed by the learned Judicial Magistrate, Kotagiri in C.M.P.No.617 of 2018 in S.T.C.No.67 of 2013.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Ms.P.Kritika Kamal
Govt. Advocate [Crl. Side]

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 11.04.2018 passed by the learned Judicial Magistrate, Kotagiri in C.M.P.No.617 of 2018 in S.T.C.No.67 of 2013.

2.The petitioner is facing prosecution in STC.No.67 of 2013 under Section 279, 337 and 338 of IPC before the Judicial Magistrate, Kotagiri. The petitioner appeared before the trial Court for few hearings and thereafter, he did not appear before the trial Court and therefore, non bailable warrant is pending against the petitioner from 13.06.2013. While so, the petitioner filed Crl.M.P.No.617 of 2018 in STC.No.67 of 2018 to recall the non bailable warrant, without surrendering before the trial Court. The said petition has been dismissed by the trial Court on 11.04.2018. Challenging which, the petitioner is before this Court.

3.Heard Mr.R.Thirumoorthy, learned counsel for the



petitioner and Ms.P.Kritika Kamal, learned Government Advocate [Crl. Side] appearing for the respondent.

4.Mr.Thirumoorthy, learned counsel for the petitioner submitted that the petitioner was working as a driver in Tamil Nadu State Transport Corporation and only on account of that, he could not be able to appear before the trial Court.

5.On a perusal of the impugned order, this Court does not find any infirmity therein, inasmuch as, the trial Court has refused to recall the warrant, without the actual presence of the accused. Had the accused appeared before the trial Court and given satisfactory reasons, the trial Court would have generously recalled the warrant.

6.Hence, this petition is closed with a direction to the petitioner to surrender before the Judicial Magistrate, Kotagiri and file an application to recall warrant. The Judicial Magistrate, Kotagiri is directed to consider the application on merits on the same day.

Sd/-

Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Kotagiri.

2.The Inspector of Police,
Kotagiri Police Station,
Nilgiri.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thirumoorthy, Advocate SR.No.30620

CRL.OP.No.12489 of 2018

GN(27/04/2018)