

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 14.09.2018

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM.J

Crl.O.P.No.22182 of 2018

Sivaprakasam

... Petitioner/Accused

Vs.

P.Ilango

... Respondents/Complainant

For Petitioner : Mr.K.Shanmugam

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the order passed on 31.08.2018 in Crl.M.P.No.6636 of 2018 in C.C.No.4619 of 2017 and recall Non Bailable Warrant issued by the learned Metropolitan Magistrate FTC-II, Egmore.

ORDER

This petition has been filed to set aside the order dated Crl.M.P.No.6636 of 2018 in C.C.No.4619 of 2017 on the file of the learned FTC-II Metropolitan Magistrate Court, Egmore and recall the non bailable warrant issued against the petitioner.

2. The learned counsel for the petitioner has submitted that the petitioner is facing trial on the alleged offence punishable under Section 138 of Negotiable Instruments Act. He further submitted that on 20.08.2018, the petitioner was not able to appear before the Trial Court due to illness and hence he informed his counsel to file a petition under Section 317 of Cr.P.C. He further submitted that the petitioner's counsel also has filed a petition under Section 317 of Cr.P.C., but the Trial Court has dismissed the petition and issued a non bailable warrant and subsequently on 31.08.2018, the petitioner has filed a petition to recall the said non-bailable warrant. He further submitted that the said petition also was dismissed and hence, he requests to set aside the order passed by the learned FTC-II Metropolitan Magistrate Court, Egmore dated 31.08.2018 and recall the non bailable warrant issued against the petitioner.

3. It is seen from the records that on 20.08.2018 the petitioner has not appeared before the Trial Court and to condone his absence, the learned counsel for the petitioner has filed the

petition under Section 317 Cr.P.C and when the matter was passed over for taking evidence, the petitioner's counsel was absent and only on that ground, the petition filed under Section 317 Cr.P.C was dismissed. Subsequently, the petitioner, without surrendering himself, has filed Crl.M.P.6636 of 2018 on 31.08.2018 to recall the non bailable warrant and the said petition was also dismissed. The petitioner ought to have surrendered before the Trial Court while filing the petition to recall the non bailable warrant. But the said procedure has not been followed by the petitioner. Therefore, the petitioner is directed to surrender before the Trial Court within a week from the date of receipt of a copy of this order and file a petition to recall the non bailable warrant. If any such petition is filed, the Trial Court has to consider the same and dispose of the same on merits on the same day.

4. With the above submission, this petition stands disposed of.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dss/nmm

To

1. The learned Metropolitan Magistrate FTC-II,
Egmore.

+1cc to Mr.K.Shanmugam, Advocate, S.R.No. 64060.

Crl.O.P.No.22182 of 2018
rrs 27/09/2018.

WEB COPY