

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.Nos.26974 and 26995 of 2018

1.India Track Rep. by its Proprietor R.V.Narmadhaa
Having office at No.D14, Mullai Street,
Brindavan Nagar,
Koyambedu, Chennai 600 107.

2.R.V.Narmadha,
Proprietor of India Tract,
Having office at No.D14, Mullai Street,
Brindavan Nagar,
Koyambedu, Chennai 600 107.

.. Petitioners in both Crl.O.Ps

Vs.

N.Ravichandran .. Respondent in both Crl.O.Ps

PRAYER CRL.O.P.No.26974 of 2018: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order of return dated 03.11.2018 made in petition to recall warrant filed in C.C. No.465 of 2016 made by the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur and recall the warrant dated 27.08.2018 issued in C.C. No.465 of 2016 by the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur.

PRAYER CRL.O.P.No.26995 of 2018: This Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to extend the time given to deposit in order dated 17.09.2018 in Crl.M.P. No.3799 of 2018 in Crl.A. No.40 of 2018 issued by the learned Principal Sessions Judge, Chengalpattu.

For Petitioners : Mr.G.Mageshkumar
(in both Crl.O.Ps)

ORDER

CRL.O.P.No.26974 of 2018 has been filed seeking to set aside the order of return dated 03.11.2018 made in a petition to recall warrant filed in C.C. No.465 of 2016

made by the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur and to recall the warrant dated 27.08.2018 issued in C.C. No.465 of 2016 by the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur.

2.CRL.O.P.No.26995 of 2018 has been filed seeking to extend the time given to deposit in order dated 17.09.2018 in CrI.M.P. No.3799 of 2018 in CrI.A. No.40 of 2018, issued by the learned Principal Sessions Judge, Chengalpattu.

3.The petitioners were convicted for an offence under Section 138 of Negotiable Instruments Act, by a judgment passed by the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur, dated 26.07.2018 in C.C. No.465 of 2016 and sentenced the petitioner to undergo simple imprisonment for a period of one year and pay a compensation of a sum of Rs.8,95,901/- to the complainant.

4.The petitioners filed a petition under Section 389 (3) of Cr.P.C., for suspension of sentence before the Trial Court, pending filing of the appeal. The Trial Court suspended the sentence for a period of one month. Since, the time lapsed, the Trial Court issued a Non Bailable Warrant against the petitioners.

5.In the mean time the petitioners filed C.M.P.No.3799 of 2018 in CrI.A. No.40 of 2018 for suspension of sentence, before the learned Principal Sessions Court, Kancheepuram at Chengalpattu. The learned Principal Sessions Court, suspended the sentence on condition that the second petitioner will execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur. The further condition that was imposed was that the petitioners were directed to deposit a sum of Rs.2,24,000/-.

6.The petitioners approached the Trial Court to recall the Non Bailable Warrant on the ground that the Appellate Court has suspended the sentence imposed by the Trial Court. However, the Trial Court refused to recall the Non Bailable Warrant on the ground that the petitioners did not comply with the condition of depositing the compensation amount fixed by the Appellate Court. Aggrieved by the same, the present Criminal Original Petition has been filed before this Court.

7.This Court is of the considered view that the procedure adopted by the Trial Court was fair and

reasonable. Admittedly, the petitioners did not deposit the compensation amount fixed by the Appellate Court. Therefore, the petitioners did not comply with the condition imposed by the Appellate Court for suspension of sentence and rightly the Trial Court has returned the petition filed by the petitioners to recall the Non Bailable Warrant.

8.The learned counsel for the petitioners would submit that the petitioners had some difficulty in arranging the amount and that is the reason why, the compensation amount was not deposited on time. The learned counsel for the petitioners sought for some time for depositing the compensation amount fixed by the Appellate Court.

9.Considering the facts and circumstances of the case, the petitioners are directed to deposit the compensation amount of Rs.2,24,000/- fixed by the Appellate Court, by order dated 17.09.2018, on or before 19.12.2018, before the Trial Court. Till then the Non Bailable Warrant issued against the petitioners by the Trial Court shall be kept in abeyance. Immediately after the deposit of the compensation amount within the time stipulated by this Court, the petitioner shall produce the proof of deposit before the Trial Court. The Trial Court shall thereafter entertain the petition for recalling of Non Bailable Warrant and shall recall the Non Bailable Warrant.

10.If the petitioners fail to deposit the compensation amount fixed by the Appellate Court, at the time of considering the petition for suspension of sentence, within the time stipulated by this Court, the suspension of the sentence granted by the Appellate Court, by the order dated 17.09.2018, shall stand cancelled and the Trial Court can thereafter execute the Non Bailable Warrant and secure the petitioners for the purpose of undergoing the sentence.

11.This Criminal Original Petitions are disposed of with the above directions.

Sd/-

Assistant Registrar(CS ii)

//True Copy//

Sub Assistant Registrar

ia/vsg1

To

1.The Principal Sessions Judge,Chenagalapttu.

2.The learned Judicial Magistrate,
Fast Track Court (Magistrate Level),
Alandur.

3..The Public Prosecutor,
High Court of Madras.

CRL.O.P.Nos.26974 and 26995 of 2018

ASK(30/11/2018)