

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2018

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.28234 of 2018
and Crl.M.P.No.16419 of 2018

Amin Noorali Rangara @ Amin Rangara
Director, M/s. Rangara Industries Pvt.Ltd ...Petitioner

Vs.

M/s. Best Road Carrier
Rep by its Power agent Mr.Amit Bansal
Chief Executive (Logistics)Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to set aside the order in M.P.No.9065 of 2018 dated 20.11.2018 in C.C.No.5056 of 2014, on the file of the Fast Track Court-II, Metropolitan Magistrate Egmore at Allikulam, Chennai.

For Petitioner : Mr.K.G.Senthil Kumar

O R D E R

This petition has been filed challenging the order passed by the Court below in M.P.No.9065 of 2018, dated 20.11.2018, wherein, the Court below has dismissed the petition filed by the petitioner to recall the warrant on the ground that the petitioner was absent at the time when the petition was called.

2 It is seen from the records that the petitioner is facing trial before the Court below for an offence under Section 138 of Negotiable Instruments Act. The petitioner has been added as A2 in the complaint. The complaint has been pending from the year 2014 onwards and Non Bailable Warrant was issued against the petitioner in the year 2016. The petitioner has filed a petition to recall the warrant on 20.11.2018 without being present before the Court below. Therefore, the Court below has dismissed the petition on the ground that the petition cannot be entertained without the presence of the petitioner.

3 The learned counsel for the petitioner would submit that the petitioner is a permanent resident of Mumbai and the petitioner had engaged a counsel to represent him in the case. Since there was a lack of communication between the

petitioner and his counsel, the petitioner was not aware of the Non Bailable Warrant issued by the Court below. The learned counsel for the petitioner would further submit that the petitioner, in order to show his bonafide, undertakes to deposit the amount before the Court below and the Court below may be directed to complete the proceedings within a time limit that may be fixed by this Court.

4 This Court does not find any illegality or infirmity in the Court below dismissing the petition. Admittedly, the Non Bailable Warrant has been pending from the year 2016 onwards. Therefore, the Court below was right in insisting for the presence of the petitioner.

5 In view of the submissions made by the learned counsel for the petitioner, the petitioner is directed to be present before the Court and shall file a petition to recall the Non Bailable Warrant. The petitioner is also directed to deposit a sum of Rs.50,000/- to the credit of C.C.No.5056 of 2014. The Court below shall consider the petition filed by the petitioner to recall Non Bailable Warrant and shall pass orders on the same day.

6 The Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in C.C.No.5056 of 2014 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions is also closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

+1cc to Mr.K.G.Senthilkumar, Advocate SR.No.83119

rpl
To

The Fast Track Court-II,
Metropolitan Magistrate Egmore at Allikulam,
Chennai.

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(CO)
GMY (13/12/2018)