

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.12.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.29468 of 2018

and

Crl.M.P.No.17314 of 2018

N.Lingusamy
Film Director,
No.16, Lamech Street, Janaki Nagar,
Valasaravakkam,
Chennai - 600 087. Petitioner

Vs.

V.Ravindran Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the order dated 29.08.2018 passed in Crl.M.P.No.2636 of 2018 in C.C.No.8575 of 2017 and direct the Metropolitan Magistrate Fast Track Court No.III, Saidapet in so far as payment of 20% of the cheque amount as interim compensation by invoking Section 143(A) of the Negotiable Instrument (Amendment) Act, 2018.

For Petitioner : Mr.D.Prabhu Mukunth Arunkumar

ORDER

This Criminal Original Petition has been filed challenging the order of the Court below imposing a condition to the petitioner to pay 20% of the cheque amount as interim compensation to the complainant with in a period of 60 days, for the purpose of recalling the Non Bailable Warrant, issued against the petitioner.

2. The petitioner is facing trial before the Court below for offence under section 138 of Negotiable Instruments Act. The case is at the stage of defence witnesses. When the matter was called in the Court on 29.08.2018, there was no representation on the side of the petitioner. Hence, the Court below has issued a Non Bailable Warrant. On the very same day, the petitioner has filed a petition to recall the Non Bailable Warrant. The

Court below while allowing the petition, imposed a condition to the effect that the petitioner has to pay 20% of the cheque amount as interim compensation to the complainant. Aggrieved by the same, this petition has been filed.

3. The counsel for the petitioner would submit that the Court below ought not to have imposed such a onerous condition for the purpose of recalling the Non Bailable Warrant. The learned counsel would further submit that Section 143 (A) was brought into force only on 01.09.2018 by a notification dated 16.08.2018. Therefore, on the day when this order was passed, section 143 (A) of the Negotiable Instruments Act, has not even come into force. Therefore, the Court below ought not to have imposed such a condition.

4. In the facts and circumstances of the case, the Court below should have proceeded with the case by recalling the warrant. However, the court below thought it fit to impose a condition directing the petitioner to pay 20% of the cheque amount as interim compensation. This in the considered view of this Court, is onerous condition and such an onerous condition need not have been imposed in this case, since the petitioner has filed a petition to recall the warrant on the very same day.

5. In the result, the order passed by the Court below dated 29.08.2018, imposing the condition to recall Non Bailable Warrant is hereby set aside and the Non Bailable Warrant issued against the petitioner is recalled without any conditions.

6. Accordingly, this Criminal Original Petition is allowed with a direction to the Court below to complete the proceedings within a period of two months from the date of receipt of a copy of this order. Further, it is made clear that the petitioner shall be present before the Court on every hearing date, till the completion of the proceedings. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

arb/ub

To

- 1.The Metropolitan Magistrate Fast Track Court No.III,
Saidapet.
- 2.The Public Prosecutor,
High Court, Madras.

+1cc to M/S.D.Prabhu Mukunth Arunkumar, Advocate Sr.87293

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and

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srg 09/01/2019



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