



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Cr1.O.P. (MD) No.4591 of 2018

D.Aristotle

: Petitioner/Accused No.4

-Vs-

State through
The Superintendent of Police,
CBI/ACB,
Chennai-600 006.
Cr.No.RC MA1 2011/A/0042.

: Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code praying to recall the warrant issued by the learned Chief Judicial Magistrate, Trichy District, in C.C.No.1 of 2014 dated 27.06.2016.

For Petitioner : Mr.M.Subash Babu
For Respondent : Mr.N.Nagendran,
Special Public Prosecutor for CBI Cases

O R D E R

The petitioner is Accused No.4 in C.C.No.1 of 2014 pending on the file of the learned Chief Judicial Magistrate, Trichy. It is seen that A-1, A-2 and A-3 have filed Cr1.O.P.(MD)No.12139 of 2014 for quashing the charge sheet in C.C.No.1 of 2014 and this Court appears to have granted stay of further proceedings in C.C.No.1 of 2014. Hence, this petitioner/Accused No.4 had instructed his counsel to file a petition under Section 317 Cr.P.C., on the hearing dates before the Trial Court, as there would not be any progress in the trial, on account of the stay granted by this Court. However, Cr1.O.P. (MD) No.12139 of 2014 was dismissed as early as on 30.06.2015 by this Court, despite which, this Court finds that the Trial Court has been recording in the adjudication to the effect that stay by this Court continues. The petitioner/Accused No.4 was also not aware of the stay being vacated by this Court. On 27.06.2016, the petitioner was absent before the Trial Court and the counsel also did not file an application under Section 317 Cr.P.C. Therefore, the Trial Court had issued a Non-bailable warrant against the petitioner. Hence, the petitioner is before this Court with a prayer for recalling the Non-bailable warrant.



2. Under normal circumstances, a petition to recall non-bailable warrant cannot be entertained, since Section 70(2) Cr.P.C., states that the warrant can be recalled on the appearance of the accused. In this case, the CBI has also not been able to execute the warrant from 27.06.2016 to this date. The Trial Court is also under the misconception that stay is continuing. That apart, the petitioner was arrested during investigation and released on bail.

3. In the conspectus of the peculiar facts and circumstances of the case, this Court is of the view that it will serve the interest of justice, if the petitioner is directed to surrender before the Trial Court, within two weeks from the date of receipt of a copy of this order and on such surrender, he shall file an affidavit giving his correct address, passport, Aadhar card number and other identity card details. On such surrender, the trial Court is directed to recall the non-bailable warrant. The petitioner shall further give an undertaking that he will participate in the trial and cross-examine the witnesses on the day they are examined in chief, without adopting any dilatory tactics. If the petitioner absconds, a fresh First Information Report can be registered against him under Section 229-A of the Indian Penal Code.

4. This Criminal Original Petition is ordered accordingly.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

Note to Registry:

The Assistant Registrar (Criminal side) is directed to see whether the original records in C.C.No.1 of 2014 were called for in Cr1.OP(MD)No.12139 of 2014 and if so, whether the records have been despatched to the Trial Court. If it is not despatched, steps should be taken immediately to despatch the same.

To

1. The Chief Judicial Magistrate,
Trichy District.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Superintendent of Police,
CBI/ACB, Chennai-600 006.



3. The Special Public Prosecutor for CBI Cases,
Madurai Bench of Madras High Court, Madurai.

Copy To :-

The Assistant Registrar (Criminal Side),
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.M.SUBASH BABU, ADVOCATE IN SR No. 58517

SML

TE/SKN-RSK/SAR-3 : 09/04/2018 : 3P/6C

Order made in
Crl.O.P.(MD)No.4591 of 2018
Dated: 27.03.2018