



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P. (MD)No.14391 of 2018
and Crl.M.P. (MD)No.6436 of 2018

WEB COPY

M.Jeyaraj

: Petitioner

Vs.

The State represented by,
The Inspector of Police,
E.O.W.(Crime II),
Madurai.(Crime No.3 of 2009)

: Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the entire records pertaining to the order passed by the learned Chief Judicial Magistrate, Madurai in Cr.M.P.No.833 of 2018 in C.C.No.4 of 2013 dated 24.07.2018 and set aside the same and consequently direct the learned Chief Judicial Magistrate, Madurai to recall the non-bailable warrant issued against the petitioner on 24.07.2018 by accepting the surety memos as per the order passed by the learned Principal Sessions Judge, Madurai in Crl.M.P.No.3249 of 2018 in C.A.No.68 of 2018 dated 23.07.2018 on the day of surrender itself.

For Petitioner
For Respondent

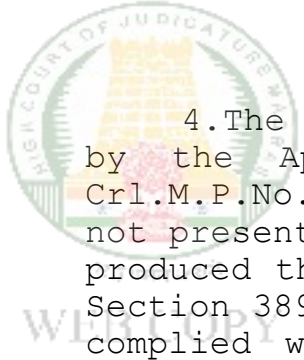
: Mr.S.Balaji
: Mrs.S.Bharathi
Government Advocate

ORDER

This Criminal Original Petition has been filed challenging the order passed by the learned Chief Judicial Magistrate, Madurai in Crl.M.P.No.833 of 2018, dated 24.07.2018.

2.The petitioner was convicted for the offence under Sections 406 & 420 IPC and was sentenced to undergo three years rigorous imprisonment for each of the offence and was imposed fine Rs.10,000/- in default to undergo three months simple imprisonment. The petitioner filed a petition for suspension of sentence before the Trial Court under Section 389 (3) Cr.P.C and the Trial Court was pleased to suspend the sentence till 23.07.2018. The petitioner had complied with the execution of bond along with two sureties before the Trial Court.

3.Thereafter, the petitioner filed an appeal before the learned Principal Sessions Court, Madurai against the judgment of the Trial Court. Along with the appeal, the petitioner filed a petition for suspension of sentence. The Appellate Court by an order, dated 23.07.2018 suspended the sentence passed by the Trial Court on condition that the petitioner should execute a bond for a sum of RS.10,000/- along with two sureties for likesum to the satisfaction of the learned Chief Judicial Magistrate, Madurai.



4.The petitioner in order to comply with the condition imposed by the Appellate Court, filed an appropriate application in CrI.M.P.No.833 of 2018. However, on 24.07.2018, the petitioner was not present before the learned Chief Judicial Magistrate and had not produced the sureties. Since time granted by the Trial Court under Section 389(3) Cr.P.C had expired by then and the petitioner had not complied with the condition imposed by the Appellate Court, the learned Chief Judicial Magistrate, Madurai had issued Non-Bailable Warrant against the petitioner. Aggrieved by the same, the petitioner filed the present Criminal Original Petition before this Court.

5.The learned counsel appearing for the petitioner submitted that if one more opportunity is granted to the petitioner, he will comply with the condition imposed by the Appellate Court in CrI.M.P.No.3249 of 2018.

6.This Court is of the considered view that the petitioner is pursuing his statutory remedy of appeal and therefore, the same should not be defeated by sending the petitioner to the prison for non-compliance of the condition and one more opportunity should be given to the petitioner to comply with the condition imposed by the Appellate Court.

7.The order passed by the learned Chief Judicial Magistrate, Madurai in CrI.M.P.No.833 of 2018, dated 24.07.2018 is hereby set aside and the Non-Bailable Warrant is recalled and the petitioner is directed to appear before the learned Chief Judicial Magistrate, Madurai on 20.08.2018 and execute a bond for a sum of Rs.10,000/- along with two sureties for likesum to the satisfaction of the learned Chief Judicial Magistrate, Madurai. It is made clear that if the petitioner fails to comply with the condition imposed by this Court, the order passed by the learned Chief Judicial Magistrate, Madurai, dated 24.07.2018 will stand revived.

8.With the above directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Chief Judicial Magistrate,

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

Madurai.



2. The Principal Sessions Judge,
Madurai.

3. The Inspector of Police,
E.O.W.(Crime II),
Madurai.

WEB COPY

+1CC to Mr.S.Balaji, Advocate, SR.No.78570

Crl.O.P.No.14391 of 2018
13.08.2018

GNS

ES/SKN/RSK/SAR 1/16.08.2018/3P/5C