

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2019

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10283 of 2019

S.Ganesh

... Petitioner

Vs

1. The Superintendent of Police,
Erode, Erode District.

2. The Inspector of Police,
Erode North Police Station,
Erode District.

3. R.Arulkumar ... Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the 1st and 2nd respondent police not to execute the non bailable warrant issued by the learned Fast Track Judicial Magistrate No.1, Erode in STC No.48 of 2017 pursuant to the order passed by the learned II Additional District and Sessions Judge, Erode in C.A.No.63 of 2018 by Judgment dated 28.06.2018 till the time.

For Petitioner : Mr.C.S.Saravanan

For Respondent 1, 2 : Mr.C.Raghavan,
Government Advocate (Crl. Side)

O R D E R

This petition has been filed to direct the 1st and 2nd respondent police not to execute the non bailable warrant issued by the learned Fast Track Judicial Magistrate No.1, Erode in STC No.48 of 2017 pursuant to the order passed by the learned II Additional District and Sessions Judge, Erode in C.A.No.63 of 2018 by Judgment dated 28.06.2018 till the time.

2.Heard the learned Counsel for the petitioner and learned Government Advocate (Crl. Side) for the respondents 1 and 2

3.The case of the prosecution is that the petitioner submits

that after conviction and sentence confirmed by the Appellate Court there was a compromise between the petitioner and the 3rd respondent and based on that the petitioner agreed to pay a sum of Rs.3,86,000/- by agreement dated 20.09.2018 and accordingly on the same day the petitioner pay Rs.1,00,000/- on 20.09.2018 and subsequently the petitioner paid another Rs.1,00,000/- and the same was received by the 3rd respondent and the petitioner also agreed to pay the rest of the amount of Rs.1,86,000/- by the end of February 2019, but the 3rd respondent was not agreed by him as Rs.1,86,000/- and in the mean time there arose delay to file Revision Petition before this Hon'ble Court. Therefore, the petitioner preferred a Revision Petition before this Hon'ble Court with condone delay petition in Crl.M.P.No.3224 of 2019 and the same was dismissed on 06.03.2019 by this Hon'ble Court. In the mean time the 3rd respondent approached the learned Fast Track Judicial Magistrate No.1, Erode to issue the warrant in pursuant to the order passed by the II Additional District and Sessions Judge, Erode suppressing the receipt of Rs.2,00,000/- out of the compromise memo of Rs.3,86,000/-. Therefore, the petitioner apprehends arrest in the hands of 1st and 2nd respondent police. Hence, the petitioner filed this Criminal Original Petition.

4.It is relevant to extract the following observations made by this Hon'ble Court in the case of P.Selvakumar -vs- The Assistant Commissioner of Police Salem District and others, in Crl.O.P.No.8110 of 2019 dated 26.03.2019.

"3.It is seen that the petitioner is an accused and he was convicted in C.C.No.226 of 2013 for the offences punishable under section 138 of Negotiable Instruments Act on the file of the learned Judicial Magistrate No.III, Salem, as against which in C.A.No.19 of 2015, it is also confirmed by the Appellate Court by an order dated 14.12.2016. In pursuant to the said order, the learned Magistrate No.III, Salem issued non bailable warrant as against the petitioner and it is pending, as against which, the petitioner preferred revision before this Court along with delay in Crl.M.P.No.3207 of 2019 in Crl.R.C.Sr.No.10623 of 2019 and this Court has dismissed the same by an order dated 06.03.2019.

4.It is further seen that the petitioner has dragged the matter upto this Court from the year 2013 onwards. Therefore, the direction sought for in this petition is devoid of merits and hence dismissed. However the learned counsel for the petitioner submitted that, he

will settle the amount to the third respondent within a period of one month.

.....

6.In the result, this Criminal Original Petition is disposed of."

5.In view of the above, the second respondent is directed to not to execute the non bailable warrant for a period of one month from today. If the petitioner fails to settle the amount to the third respondent, the second respondent is directed to execute the non-bailable warrant and take action on

merits and in accordance with law. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rna

To

1. The Fast Track Judicial Magistrate No.I, Erode.
2. The learned II Additional District and Sessions Judge, Erode.
3. The Superintendent of Police, Erode, Erode District.
4. The Inspector of Police, Erode North Police Station, Erode District.
5. The Public Prosecutor, High Court of Madras.

+lcc to Mr.C.S.Saravanan, Advocate, S.R.No.37834

Cr1.O.P.No.10283 of 2019

pms (co)
cs/30/04/2019