

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.24705 of 2019

Subhash

...Petitioner

Vs.

M/s.Mahindra and Mahindra

Financial Limited,

Having its registered office at,
Gateway Building, Apollo Bunder,
Mumbai - 400 001.

Rep by its Power Agent,
S.Tamilarasan

Deputy Manager - DL Vertical.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the Fast Track Court, Judicial Magistrate No.II, Coimbatore to recall the Non Bailable Warrant issued against the petitioner in CC.No.126 of 2018 dated 24.05.2019.

For Petitioner : Mr.S.Sugendran

ORDER

This Criminal Original Petition is filed to direct the learned Fast Track Court, Judicial Magistrate No.II, Coimbatore to recall the Non Bailable Warrant issued against the petitioner in CC.No.126 of 2018 dated 24.05.2019.

2. This Court, by an earlier order dated 07.09.2017 passed in Crl.O.P.Nos.13276 of 2017, etc., had considered the scope of recalling a Non-Bailable Warrant issued by the Trial Courts. The relevant portion of the said order reads as follows:-

20.Thus, under Section 82 of Cr.P.C., there can be no impediment on the part of the trial Court to pronounce him as a proclaimed offender, instead of keeping the matter pending indefinitely for the purpose of having the warrant executed. Hence, the existence of the fourth category of cases cannot be a ground to preclude the High Court to do justice in the first three categories particularly, when they constitute a major portion of the pending cases in the State of Tamil Nadu, in which, Non Bailable Warrants are pending execution.

21.To sum up the findings rendered by me, it is reiterated that the issuance of Bailable Warrant or Non Bailable Warrant should be exercised with extreme caution and in the rarest of cases, bearing in mind that the pendency of Non Bailable Warrant is one of the major factors for the long pendency of cases before the trial Court. The trial Court shall also scrupulously follow the guidelines imposed in Inder Mohan Gowsami's case (supra) as well as the observations made in the present case while issuing Non Bailable Warrants or recalling the Non Bailable Warrants.

3. By following the ratio laid down in the aforesaid order, this Court is of the view that the petitioner's request for recalling the Non-Bailable Warrant can also be considered.

4. Accordingly, the Non-Bailable Warrant dated 24.05.2019 issued against the petitioner in CC.No.126 of 2018 on the file of the learned Fast Track Court, Judicial Magistrate No.II, Coimbatore, is hereby recalled.

5. It is made clear that the petitioner shall henceforth co-operate by regularly attending the proceedings before the concerned Court.

6. Accordingly, the Criminal Original Petition stands allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate No.II,
Fast Track Court, Coimbatore.

+1 cc to M/s.S.Sugendran, Advocate Sr.No. 79120

AKM/14.10.19/2P-3C /

Cr1.O.P.No.24705 of 2019