

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.30646 of 2019

Uma Shankar  
S/o.K.Palaniswami  
Managing Director  
M/s.M.P.Shan Tex Pvt. Ltd.  
SF No.145/1A/A, Near Amman Kovil,  
Parapalayam Post,  
Tiruppur-641 607

...Petitioner

Vs

M/s.Hi-Tech Air Power (P) Ltd.,  
Rep. by its Sales Manager  
D.Mahendra Kumar,  
27, Second Floor, Second Main Road,  
Thilai Nagar, Santhil Nagar,  
Kolathur, Chennai - 600 099.

....Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the Fast Track Court No.II, Egmore to recall the Non-Bailable Warrant issued against the petitioner n 31.10.2019 in C.C.No.8420 of 2014.

For Petitioner : Mr.K.S.Karthik Raja

ORDER

This Criminal Original Petition is filed to direct the Fast Track Court No.II, Egmore to recall the Non-Bailable Warrant issued against the petitioner n 31.10.2019 in C.C.No.8420 of 2014.

2.It is represented that, the petitioner had obtained stay of further proceedings. The petitioner has filed a petition in Crl.Rc.No.26 of 2018 challenging the dismissal of the petitioner's application under Section 45 of the Indian Evidence Act r/w Section 91 of Cr.P.C. and inspite of the same, warrant has been issued for non-appearance.

3. 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.

4. 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.

5. Accordingly, the Non-Bailable Warrant dated 31.10.2019 issued against the petitioner in C.C.No.8420 of 2014 on the file of the Fast Track Court No.II, Egmore, is hereby recalled.

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

7. Accordingly, the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar (J)

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// True Copy //

Sub Assistant Registrar

ssr/jas

To

The Fast Track Court No.II, Egmore.

+1cc to Mr.K.Karthik Raja, Advocate, SR.No.30646.

Cr1.O.P.No.30646 of 2019

(CO)  
CSR(20/12/2019)



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