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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Cr1.O.P.(MD)No.3613 of 2019

R.Kingslin Ruban

... Petitioner/Sole Accused

/Vs./

Siddharthan

... Respondent/Complainant

Prayer: Petition - filed under Section 482 of the Criminal Procedure Code, to issue direction to the Fast Track Court (Magisterial Level) Thanjavur to receive the petition dated 22.02.2019 filed under Section 70(2) Cr.P.C., and recall the NBW issued in connection with a case in S.T.C.No.167 of 2017 without insisting the petitioner to surrender.

For Petitioner

: Mr.P.T.Ramesh Raja

ORDER

This criminal original petition is filed challenging the order of the learned Magistrate in returning the petition filed by the petitioner under Section 70 (2) Cr.P.C., for recalling the warrant. It was returned on the ground that the accused has not surrendered.

2. The learned counsel appearing for the petitioner submitted that the offence itself is not heinous and basically it is a private offence and under Section 70 (2) Cr.P.C., the accused need not surrender for recalling the warrant. He also placed reliance on the decision of this Court reported in **the case of Muthu vs. State represented by the Inspector of Police, V-1, Villivakkam Police Station, Chennai** [2007 (2) T.N.L.R. 15 (Mad)] and a decision of the unreported order of this Court in the case of **S.Sundar vs. State**, in **Cr1.O.P.No.4514 of 2016** dated **02.03.2016**.

3. This Court is in agreement with the authorities cited. The learned Magistrate is directed to entertain the petition filed under Section 70 (2) Cr.P.C., and consider the same and pass appropriate orders on the same day, without insisting the presence of the petitioner.



4. With the above direction, this Criminal Original Petition is disposed of.

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Sd/-

Assistant Registrar

Sub Assistant Registrar (CS-II)

To

The Fast Track Court (Magisterial Level)
Thanjavur.

+1 CC to M/s.P.T.RAMESH RAJA, Advocate
(SR-52565[F] dated 08/03/2019)

Order made in
Crl.O.P. (MD) No.3613 of 2019

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ES/30.04.2019/2P/3C