



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

Crl.O.P. (MD)No.14436 of 2020

C.Kannan

Petitioner/Sole Accused

Vs.

1.The Inspector of Police
Ponmalai Police Station,
Trichy City.

...1st Respondent/complainant

2.M/s.Sri Venkateshwara Property
Developers and Finance,
through its Managing Director,
R.Girigopinath
S/o V.R.Radhakrishnan
A8/1, 11th Cross West Extension,
Thillai Nagar,
Trichy-18.

...2nd Respondent/complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the learned Judicial Magistrate No.IV, Trichy to consider the warrant recall petition under Section 70(2) of Cr.P.C, to be filed by the petitioner in STC No.601 of 2018, on the file of the learned Judicial Magistrate No IV. Trichy, on the same day without insisting the petitioner's appearance.

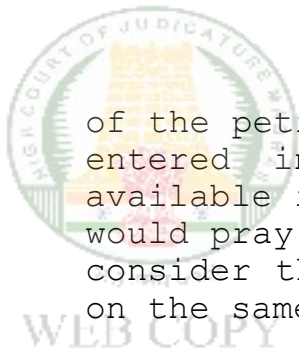
For Petitioner : Mr.T.A.Ebenezer

For R1 : Mr.V.Neelakandan
Additional Public Prosecutor.

ORDER

This petition has been filed to direct the learned Judicial Magistrate No.IV, Trichy to consider the warrant recall petition under Section 70(2) of Cr.P.C, to be filed by the petitioner in STC No.601 of 2018, on the file of the learned Judicial Magistrate No IV. Trichy, on the same day without insisting the petitioner's appearance.

2.According to the petitioner, he came to know that the complaint under Section 138 of Negotiable Instruments Act was filed by the 2nd respondent against the petitioner, which was taken on file as STC No.601 of 2018, on the file of the learned Judicial Magistrate No.IV, Trichy. It is further submitted that without issuing summons, NBW has been issued against the petitioner and the 1st respondent police is in search of the petitioner. The grievance



of the petitioner is that in his absence, the respondent police have entered into his house and searched him, while ladies alone available in the home. Hence, the learned counsel for the petitioner would pray that direction may be issued to the learned Magistrate to consider the warrant recall petition to be filed by the petitioner, on the same day, without insisting the petitioner's appearance.

3.The learned Additional Public Prosecutor(Crl.side) on instructions would submit that NBW was issued on 23.02.2020 and the respondent police has not yet received the warrant.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor(Crl.side) for the respondent.

5.The case is of the year 2018 and the warrant has been issued as early as on 23.02.2020 and the petitioner is aged about 63 years. In the judgement reported in **(2007) 2 MLJ (Crl) 1668, Sirugudugu Naga Venkata Durgakumari and others Vs. Surugudu Jhansilakshmi**, this Court has held that very physical presence of the petitioner or surrender before the Court is not necessary for filing the petition under Section 70(2) to recall the non-bailable warrant. Considering the age of the petitioner, the Judicial Magistrate No.IV, Trichy shall consider the recall warrant petition of the petitioner to be filed, sympathetically without insisting his presence and pass orders in accordance with law on the same day. Considering the facts and circumstances of the case, there shall be a direction to the Judicial Magistrate No.IV, Trichy to dispose of the case in STC No.601 of 2018, within a period of three months from the date of receipt of a copy of this order.

6.With the above direction, this criminal original petition is disposed of.

Sd/-

Assistant Registrar

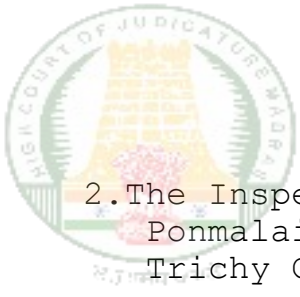
// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To



2.The Inspector of Police
Ponmalai Police Station,
Trichy City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy TO

1.The Registrar Judicial,
Madurai Bench Of Madras Highcourt,
Madurai.

CrI.O.P. (MD) No.14436 of 2020
10.12.2020

(ES)
KV(10.02.2021) 3P 5C