

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.4134 of 2021
and
Crl.M.P.No.2616 of 2021

Suresh Nandha

... Petitioner

Vs.

P.Ravi

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, directing to withdraw and transfer the case in S.T.C.No.28 of 2018 pending on the file of the learned Fast Track Judicial Magistrate Court, Nagapattinam to any other Court of equal and competent jurisdiction.

For Petitioner : Mr.S.Subramanian

O R D E R

This petition has been filed seeking for transfer of the proceedings pending in S.T.C.No.28 of 2018 before the learned Judicial Magistrate, FTC, Nagapattinam to any other Court.

2. The main ground on which the present petition has been filed is that, inspite of the Non-Bailable Warrant being recalled by the District Court, the learned Magistrate is continuing to treat the case as if the warrant is pending and therefore, the petitioner does not have confidence in continuing with the proceedings before the Court below.

3. It is seen from records that as against the dismissal of the application filed by the petitioner to recall the warrant, a revision was preferred before the learned District and Sessions Judge, Nagapattinam in Criminal Revision Petition No.2 of 2020. The learned Sessions Judge, by an order dated 06.08.2020, allowed the revision and recalled the Non-Bailable Warrant by imposing certain conditions. The conditions imposed by the learned Sessions Judge are extracted hereunder:

''6. The learned Judicial Magistrate has got every power to direct production of sureties by granting time to the petitioner. Instead of exercising

such powers, the Magistrate has chosen to dismiss the application assuming unholy alliance between the petitioner and the police. These things will go to show that the learned Judicial Magistrate has not applied his mind to the facts stated in the petition. The learned Judicial Magistrate has travelled beyond his limits in making such remarks against the petitioner. Therefore, the order passed by the Fast Track Judicial Magistrate, Nagapattinam in Cr.MP.No.314 of 2020 dated 10.07.2020 is liable to be set aside. Accordingly the said order is hereby set aside and the NBW issued by the Judicial Magistrate against the petitioner is hereby recalled subject to the following conditions:

(i) After the lock down is lifted by the Government, and within one month thereafter, the petitioner is hereby directed to appear in person and shall execute a bond for a sum of Rs.10,000/- with single surety to the satisfaction of the Fast Track Judicial Magistrate, Nagapattinam. On the same day, copies of the complaint and other documents shall be supplied to the petitioner as per section 207 of Cr.P.C. if not supplied earlier.

(ii) The petitioner shall appear before the Fast Track Judicial Magistrate, Nagapattinam whenever his personal attendance required by the Magistrate for the purpose on his execution.

(iii) The petitioner/Accused is at liberty to move separate application under Section 205 of Cr.P.C to depose with his personal appearance except the date on which the personal appearance of the petitioner/accused is required. If any such application is filed by the petitioner/accused the Magistrate shall consider and dispose the application on merits according to law."

4. It is an admitted case that the petitioner did not comply with the conditions imposed by the Sessions Court and therefore, the learned Magistrate has rightly dealt with the case as if the warrant is pending. The petitioner, without complying the conditions imposed by the Sessions court, cannot be allowed to complain against the learned Magistrate as if the Court is prejudiced against him. The petitioner ought to have complied with the conditions and thereafter, if he had any grievance, he should have worked out his remedy in accordance with law.

5. In view of the above discussion, this Court is not inclined to grant the relief sought for by the petitioner. The

petitioner is directed to surrender before the Court below within a period of one week from today and comply with the conditions imposed by the Sessions Court in Criminal Revision Petition No.2 of 2020 by an order dated 06.08.2020. If the petitioner fails to comply with the directions issued by this Court, it is left open to the learned Magistrate to issue a fresh Non-Bailable Warrant against the petitioner and execute the same to ensure the presence of the petitioner. Except giving this breathing time to the petitioner, no further orders can be passed in this petition.

6. This Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The District and Sessions Judge, Nagapattinam.
2. The Judicial Magistrate, FTC, Nagapattinam.

+1cc to Mr.S.Subramanian, Advocate Sr.No.13363

AKM/4.3.21

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and
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