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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.7928 of 2021

B.Kuppusamy

...Petitioner

-Vs-

M.Christopher

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the Hon'ble XXI Additional District Court, at Allikulam, Chennai to recall the Non-Bailable warrant issued on 12.06.2023 in Crl.A.No.141 of 2021.

For Petitioner : Mr.A.T.Anbu Kumar

ORDER

This Criminal Original Petition has been filed to recall the non bailable warrant issued by the learned XXI Additional District Court, at Allikulam, Chennai in Crl.A.No.141 of 2021, dated 12.06.2023.

2. The petitioner is arrayed as accused in C.C.No.3517 of 2017, on the file of the learned Metropolitan Magistrate, George Town, Chennai, for the offences punishable under Section 138 of



the Negotiable Instruments Act. The said case was disposed by the learned Judge by convicting the appellant/accused dated 16.04.2021. Challenging the same, the petitioner has filed criminal appeal before the in CrI.A.No.141/2021, on the file of the learned XXI Additional District Court, Allikulam, Chennai.

3. The petitioner was absent during the trial in CrI.A.No.141/2021, on the file of the learned XXI Additional District Court, Allikulam, Chennai. Therefore, non bailable warrant came to be issued on 12.06.2023.

4. The learned counsel appearing for the petitioner undertakes that the petitioner shall appear before the Court below regularly on all future hearing dates without fail. This Court may recall the NBW issued by the lower appellate Court and prays to allow this petition.

5. The fact remains that for recalling the NBW issued by the trial Court, there is specific provision available i.e. Section 70(2) of Cr.P.C. Without filing the petition under Section 70(2) of Cr.P.C. before the trial Court, the petitioner has approached this



court, which is not sustainable. This court is not inclined to entertain this petition and the same is liable to be dismissed.

6. Accordingly, this petition is dismissed. However, liberty is granted to the petitioner surrender and to file a petition to recall the NBW issued against him before the lower appellate Court. The concerned Judge is directed to consider the same on merits and pass orders on the same day.

7. Accordingly, the Criminal Original Petition stands dismissed.

01.04.2024

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Index : Yes/No
Internet : Yes/No

M.DHANDAPANI, J.

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To

1. The Additional District Court, at Allikulam, Chennai.

<https://www.mhc.tn.gov.in/judis> 2. The Public Prosecutor,



High Court, Madras.

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