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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.13607 OF 2021

1.Nasense Labs Pvt.Ltd.

Rep.by Managing Director,
Mr.Gowtham Gottumukkal,
8-3-222/B/14, Plot No.D-70,
Sri Sivalakshmi Nilayam,
Behind Vellankifoods, Madhura Nagar,
Hyderabad - 500038, Telangana.

2.Gowtham Gottumukkal

Managing Director of Nasense Labs Pvt.Ltd.
Plot No.24 & 25, S.V.Co-op.Industrial Estate,
Jeetimetla, Quthubullapur (M),
Chennai, Tamil Nadu - 600 089.

...Petitioners/
Accused 1 &2

Vs.

1.The Commissioner of Police,
Hyderabad City,
Hyderguda - Basheerbagh Road,
Avanthi Nagar, Basheerbagh,
Hyderabad - 500 029.

2.The Inspector of Police,
Jeetimetia Police Station,
Hyderabad - 500 055.

3.Balmer Lawrie & Co. Ltd.,
Rep.by its Senior Manager (Marketing),
Mr.Pradeep Menon, Industrial Packaging Division,
Sathangadu, Manali, Chennai - 68.

...Respondents/
Complainants

Prayer:

This criminal original petition has been filed under Section 482 Cr.P.C. to direct the learned Metropolitan Magistrate (FTC-III), Saidapet, Chennai, to consider the recall warrant petition filed by the 2nd petitioner under Section 70(2) of Cr.P.C. in



C.C.No.6566/2018 on the same day itself, till such time direct the 1st and 2nd respondent not to execute the Non-bailable warrant (NBW) issued in the above case.

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For petitioners : Mr.S.Pushpakaran
For Respondents : Mr.A.Damodaran
Government Advocate (Crl.side)

ORDER

The petitioners/accused in C.C.No.6566 of 2018, who are facing trial before the Metropolitan Magistrate (FTC-III), Saidapet, Chennai, have filed this petition seeking to consider the recall warrant petition filed under Section 70(2) Cr.P.C. on the same day.

2.The contention of the petitioners is that the petitioners are hailing from Hyderabad. There was some dispute in payment to the third respondent Balmer Lawrie & Co, Ltd., and a case under Section 138 of The Negotiable Instrument Act has been filed. The total amount due is at Rs.6,65,550/-. According to the petitioners, they have paid the entire cheque amount and there is no dispute with regard to the payment of interest, which had been negotiated and the third respondent agreed to come for a settlement. In the meanwhile, NBW has been issued against the second petitioner and the second respondent is threatening to arrest the second petitioner and the next hearing date of C.C.No.6566 of 2018 before the trial is on 25.10.2021.

3.On a perusal of the typed set of papers, it is seen that from the statement of account produced by the petitioners, the payment to the third respondent has been made subsequent to the filing of the complaint and the complaint is kept pending initially for issue of service and finally, NBW has been issued on 05.04.2021.

4.Considering that Section 138 is a bailable offence and the petitioners' contention that the entire cheque amount has been paid, this Court is inclined to direct the trial Court to recall non-bailable warrant on the same day. The second petitioner is directed to serve the copy of recall petition to the third respondent well in advance. In view of the undertaking given by the second respondent that it is only a bailable offence, the third respondent shall not take any coercive action till such



time.

With the abovesaid directions, the Criminal Original Petition is disposed of.

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s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms

To

- 1.The Commissioner of Police,
Hyderabad City,
Hyderguda - Basheerbagh Road,
Avanthi Nagar, Basheerbagh,
Hyderabad - 500 029.
- 2.The Inspector of Police,
Jeetimetia Police Station,
Hyderabad - 500 055.
- 3.The Senior Manager (Marketing),
Balmer Lawrie & Co. Ltd.,
Mr.Pradeep Menon, Industrial Packaging Division,
Sathangadu, Manali, Chennai - 68.
- 4.The Metropolitan Magistrate (FTC-III),
Saidapet, Chennai.
- 5.The Government Advocate (Crl.side)
High Court, Madras.

+1cc to M/S.S.Pushpakaran, Advocate, SR.No.39051

CRL.O.P.No.13607 of 2021

PMK(CO)
PM(08/09/2021)