



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16054 of 2021

B.Anandan ... Petitioner/Complainant

Versus

S. Ravindra Kumar ...Respondent/Accused

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to expedite and complete the trial in C.C.No.2159 of 2016 pending on the file of the Fast Track Court No.III, Metropolitan Magistrate, Saidapet, Chennai - 15.

For Petitioner : Mr.V.K.Sathiamurthy.

For Respondent : -

ORDER

The petitioner/complainant in C.C.No.2159 of 2016 had filed this petition seeking appropriate directions to complete the trial by the Fast Track Court No.III, Metropolitan Magistrate, Saidapet within the time stipulated.

2. The contention of the petitioner is that the petitioner had lodged a complaint under Section 138 of Negotiable Instrument Act in the year 2015 and thereafter, on 03.07.2018 Bailable Warrant was issued against the accused. Subsequently, on 07.08.2018 finding that the accused had been evading service, Non Bailable Warrant was issued and no effective action taken by the concerned police in executing the Non Bailable Warrant. Hence, the petitioner was constrained to file Crl.O.P.No.22089 of 2018 and this Court by an order dated 12.09.2018 directed the jurisdictional police to execute NBW , secure the accused and produce him before the Trial Court within two months . The petitioner had also filed a memo before the Trial Court to ensure the presence of the accused and to direct the accused to co-operate with the trial and to complete the trial. In this case, P.W.1 has been examined in chief and the accused is yet to cross examin. Further, the petitioner has filed a suit in O.S.No.132 of 2018 for recovery of money against the respondent on the basis of the cheque, in which, the accused had filed an affidavit admitting his liability and to pay the cheque amount and the suit is also decreed. Now, the petitioner needs to mark the said affidavit filed by the accused and the copy of the judgment to further strengthen the case of the petitioner.



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3. The learned counsel for the petitioner would submit that no notice has been issued to the petitioner before recalling the Non Bailable Warrant. More so, the accused has been absconding from the year 2017, and the petitioner had been diligently prosecuting the case. After recall of NBW, the case has been adjourned thrice and the trial has not progressed. He would further submit that citing one reason or other, the accused is dragging on the proceedings and the trial court not taking effective steps to conclude the trial.

4. The adjudication of the lower Court is produced. From the adjudication, it is seen that on 31.03.2021, the case was adjourned for execution of Non - Bailable warrant and seeks report from the respondent police and the case was adjourned to 21.04.2021. In the meanwhile, on 01.04.2021, the accused had surrendered himself and recalled the Non - Bailable warrant under Section 70 (2) Cr.P.C. and the lower Court recorded that the petition filed by the petitioner under Section 254(2) Cr.P.C to receive the affidavit and the copy of the judgment of Civil Court is pending.

5. Considering the submissions and the perusal of the materials, it is seen that the accused successfully protracting the trial from the year 2017. The accused is also aware about the Civil proceedings and appeared before the Civil Court. Despite the same, for one reason or other, he had not appeared before the Magistrate court and thereafter with great difficulty, he was forced to appear, and recall NBW, thereafter, he has not appeared. This Court finds that the accused is deliberately protracting the trial as could be seen from his conduct. It is also to be noted that the functioning of trial Court commenced .

6. In view of the same, this court directs the Trial court to receive the affidavit of the accused filed before the Civil Court in O.S.No.132 of 2018 and the Judgment passed in said suit and other documents, which the petitioner proposed to adduce as additional evidence and thereafter , by giving opportunity to the accused, complete the trial within a period of Two months from the date of receipt of a copy of this order, without any further delay.

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

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar



mrp/mdl

To
The Metropolitan Magistrate,
Fast Track Court No.III,
Saidapet, Chennai 15.

+2cc to Mr.C.Rajan , Advocate SR.No.4611

CRL.O.P.No.16054 of 2021

JD II (CO)
KM(15.09.2021)