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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.20122 of 2021

V.Vijayakumar

...Petitioner / Defacto Complainant

Versus

1.RaniSivagami

...1st Respondent / Accused

2.The Inspector of Police,
Gudalur PS, Gudalur,
Nilgiris District.

...2nd Respondent / Complainant

PRAYER : Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to direct the Inspector of Police, Gudalur P.S. to execute the Non-Bailable Warrant against the First respondent/Accused, so as to enable the Hon'ble Judicial Magistrate, Fast Track Court, Ambattur, Thiruvallur District, to deliver the judgment in S.T.C.No.171 of 2016.

For Petitioner : Mr.N.R.Elango
Senior Counsel
for Mr.N.Kumanan

For Respondent : Mr.R.Vinoth Raja
No.2 Government Advocate (Cr1. side)

ORDER

The petitioner/defacto complainant has filed a private complaint under Section 200 Cr.P.C for an offence under Section 138 of the Negotiable Instruments Act, 1988, against the first respondent.

2.During the trial, the petitioner PW1 was examined in chief, thereafter, cross examined in fully on 23.11.2018. The first respondent filed 311 petition on 06.12.2018. The petitioner filed his written arguments. Thereafter, finding no reason to entertain the 311 Cr.P.C petition, the trial Court had



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reserved the case for Judgment on 28.12.2018 and the first respondent was permitted to file any written arguments before that date. The first respondent filed a memo informing the trial Court that a petition filed before the High Court, thereafter, the case was adjourned to 03.01.2019 and on 25.01.2019, a memo was filed before the trial Court informing that Crl.O.P.Sr.No.62296 of 2018 is pending. Thereafter, the case was adjourned to 30.01.2019 and on that date, the accused counsel filed a petition under Section 311 r/w 315 Cr.P.C and allowed. On 04.02.2019, the first respondent DW1 was examined in chief and cross. Thereafter, a list was produced to examine the bank manager. The Lower Court rejected the same finding that in this case, the evidence of the complainant side had been closed and the accused was questioned under Section 313Cr.P.C on 07.08.2018, thereafter, reserved for judgment and to protract the proceeding, the petition has been filed. The petitioner filed a memo on 12.03.2019 informing the Lower Court that Crl.R.C.No.294 of 2019 is pending before the Sessions Court. Thereafter, on 30.04.2019 memo was filed to the effect that Crl.R.C.No.294 of 2019 was disposed of. The accused has been regularly absenting himself and NBW was issued against the accused. For various reasons, the case was periodically adjourned and finally, on 12.02.2021 the Superintendent of Police, Nilgris, was addressed to find out the stage of non-bailable warrant and the petitioner was directed to file a process memo and thereafter, adjourned to 01.04.2021. Now, finally on 16.11.2021 finding that 138 case has been kept pending from the year 2016, despite the evidence of the complainant side had been completed. PW1 cross examined fully on 23.11.2018 and the case was reserved for judgment on 28.12.2018. Thereafter, for one reason or other, it had been successfully protracted by the accused. Now, NBW is pending against the first respondent, which ought to be executed by the Superintendent of Police, Nilgris.

3.Considering the submissions and also on perusal of the materials produced along with the typed-set, it is not in dispute the facts submitted by the Senior counsel. In this case, the complainant was cross examined on 23.11.2018, thereafter, the case was posted for judgment on 28.12.2018. On 04.02.2019, the defense witness was examined and the case was posted for judgment finally. Now, the case is pending for execution of non-bailable warrant against the first respondent and the petitioner to file a process memo and pursue the non-bailable warrant with the Superintendent of Police, Nilgris. On receipt of the non-bailable warrant, the Superintendent of Police, Nilgris to depute a responsible officer to execute the non-bailable warrant against the accused within a period of two weeks from the date of receipt of a copy of this order.



4. With the abovesaid direction, the criminal original petition is disposed of.

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Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

drm/sms

To

1. The Judicial Magistrate,
Fast Track Court, Ambattur,
Thiruvallur District,
2. The Superintendent of Police,
Nilgris.
3. The Inspector of Police,
Gudalur PS, Gudalur,
Nilgiris District.
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.Kumanan, Advocate SR.No.57282

Cr1.O.P.No.20122 of 2021

CA (CO)
RVM(30/11/2021)