



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P (MD)No.17486 of 2021

WEB COPY

Rajasivaprakash

... Petitioner

Vs

1.State rep. by its
Inspector of Police,
Usilampatti Town Police Station,
Madurai District.

2.Anbalagan

... Respondents

PRAYER: Petition filed under Section 482 Code of Criminal Procedure, to direct the learned Judicial Magistrate Court, Aandipatti, Theni District to recall the non bailable warrant issued on 21.09.2021 by considering the warrant recall petition in connection with C.C.No.135 of 2018 on the very same day of its filing.

For Petitioner : Mr.K.R.Laxman
For R1 : Mr.Veerathiran
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for R1.

2. Considering the nature of relief to be granted, notice to the second respondent is dispensed with.

3. The petitioner is facing prosecution in a private complaint filed by the second respondent under Section 138 of the Negotiable Instruments Act on the file of the Judicial Magistrate, Aandipatti in C.C.No.135 of 2018.

4. The petitioner's counsel states that on 21.09.2021, due to illness, he could not appear. Due to certain reasons, his counsel also could not attend before the court when the case was called. As a result, non bailable warrant came to be issued. Normally, the petitioner is expected to appear before the court concerned and apply for recall of warrant. He cannot move this Court directly under Section 482 of Cr.P.C.

5.The learned Government Advocate states that the first respondent has been unnecessarily impleaded. This submission is

<https://hservices.courts.gov.in/hservices/>
placed on record.



6. However, taking note of the submission that this is the first time, non bailable warrant has been issued against the petitioner and recording his undertaking that in all future hearings, he would either attend in person or through counsel, the petitioner is directed to appear before the court below on the next hearing date ie., 01.12.2021 and apply for recall of warrant. On such application being filed, the court below shall recall the warrant on the same day without remanding the petitioner to custody. Till then, non bailable warrant issued in C.C.No.135 of 2018 on the file of the Judicial Magistrate, Aandipatti, Theni District shall be kept in abeyance. This Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Judicial Magistrate,
Aandipatti, Theni District.
2. Inspector of Police,
Usilampatti Town Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-34315[F] dated 12/11/2021)

CrI.O.P (MD)No.17486 of 2021
11.11.2021

RK/NS (25/11/2021) 2P 5C