



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2022

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.4090 of 2022
and
Crl.M.P.No.2111 of 2022

B.Balaji

... Petitioner

Vs.

1. B.Vijayalakshmi @ B.Yagitha

2. The Inspector of Police,
S-13, Chrompet Police Station,
Chennai.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code to set aside the order in M.P.No.485 of 2021 dated 16.11.2021 on the file of III Additional Family Judge, Chennai and recall warrant against the petitioner issued in M.P.No.182 of 2019 on the file of III Additional Family Judge, Chennai.

For Petitioner : Mr.J.Abdul Hadi

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor
For R2.

O R D E R

This Criminal Original petition has been filed to set aside the order in M.P.No.485 of 2021, dated 16.11.2021 on the file of the III Additional Family Judge, Chennai, and recall warrant against the petitioner issued in M.P.No.182 of 2019 on the file of III Additional Family Judge, Chennai.

2. The learned counsel appearing for the petitioner would submit that the 1st respondent/wife had filed M.C.No.577 of 2015 against the petitioner. He would submit that the petitioner is working as a Medical representative, since the petitioner was unable to appear before the Court, the learned III Additional Family Judge, Chennai, in M.P.No.182 of 2019 had issued Non-Bailable Warrant of arrest against the petitioner and the



learned Judge had passed a conditional order directing the petitioner to pay a sum of Rs.1,50,000/- on or before 20.09.2021. The respondent/wife had strongly objected to recall of warrant. The petitioner had paid a sum of Rs.50,000/- on 03.08.2021. The learned Judge by order dated 03.08.2021, while recording the amount of Rs.50,000/- paid by the petitioner had directed the petitioner to pay an amount of Rs.1,50,000/- on or before 20.09.2021. On 20.09.2021, the petitioner made further payment of Rs.1,00,000/- and sought for time to pay the balance amount of Rs.50,000/- thereby, the Court directed the matter to be listed on 27.09.2021. On that day, the petitioner had paid Rs.50,000/- to the respondent wife. However, the learned Judge, by order dated 27.09.2021 directed the petitioner to pay further amount of Rs.1,00,000/- on or before 27.10.2021. When the matter was listed on 27.10.2021, the petitioner was unable to make the payment due to his financial constraints and the Court has extended time till 02.11.2021 and on that day, the petitioner had paid Rs.25,000/- to the respondent/wife and had sought for further time to pay the balance amount of Rs.75,000/-. The Court had granted further time till 16.11.2021.

3. The learned counsel for the petitioner further submitted that, due to poor financial condition, he was unable to raise the funds and pay the amount on 16.11.2021 where as, the III Additional Family Court Judge, Chennai, issued Non - Bailable Warrant for arrest. He would submit that since the Non-Bailable Warrant is pending against the petitioner, he is unable to take steps to raise funds. However, the petitioner is prepared to pay Rs.1,00,000/- on the date of surrender and he would also take steps to clear the outstanding thereby and he seeks to set aside the order and to recall the warrant.

4. In view of the above, the order dated 16.11.2021 in M.P.No.485 of 2021, issuing non-bailable warrant of arrest is set aside, on condition that the petitioner shall pay Rs.1,50,000/- to the respondent/wife, within a period of two weeks from the date of receipt of a copy of this order. In the event of non-compliance of the order, the order dated 16.11.2021 will stand automatically revived.

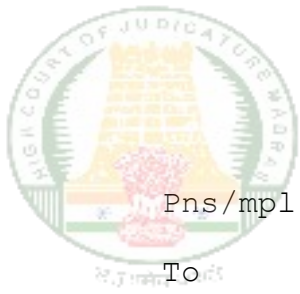
5. With these observations, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar



Pns/mpl

To

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1. The Inspector of Police,
S-13, Chrompet Police Station,
Chennai.
 2. III Additional Family Judge,
III Additional Family Court, Chennai.
 3. The Public Prosecutor,
High Court of Madras.
- +lcc to Mr.R.Muthukumar, Advocate, S.R.No.11896

Cr1.O.P.No.4090 of 2022 &
Cr1.M.P.No.2111 of 2022

SRA (CO)
CT/04/03/2022