



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.7532 of 2022

Kavitha

... Petitioner

Vs.

Josephine Dhanalakshmi

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to direct the learned Judicial Magistrate-II, Karaikkal to recall the warrant issued as against the petitioner on 16.03.2022 in STC No.1110 of 2018.

For Petitioner : Mr.R.C. Paul Kanakaraaj
for Ms.P.J.Anitha

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed seeking to direct the learned Judicial Magistrate-II, Karaikkal to recall the warrant issued as against the petitioner on 16.03.2022 in STC No.1110 of 2018.

2. Learned counsel appearing for the petitioner would submit that the petitioner is an accused in STC No.1110 of 2018, pending on the file of the learned Judicial Magistrate-II, Karaikkal for the offence punishable under Section 138 of the NI Act. He would further submit that the case was posted on 12.10.2021 for trial and on 12.10.2021, the complainant and the accused were present and thereafter, the case was posted on 14.12.2021. On 14.12.2021, the complainant was present and the evidence in chief was taken by filing a proof affidavit and again, the case was again posted on 05.01.2022. On 05.01.2022, the case was posted to 16.03.2022 for marking of document and cross examination of PW1. On 16.03.2022, the petitioner was unable to be present due to her ill health and her counsel has filed an application under Section 317 of Cr.P.C., seeking time. However, the learned Judicial Magistrate-II, Karaikkal had



dismissed the application and had issued the Non-Bailable Warrant of arrest as against the petitioner.

3. He would also submit that it is not the case of abscondance of the petitioner whereas she was duly represented by the counsel on the hearing date and now the petitioner is ready to surrender before the Court concerned and prepared to recall the warrant and co-operate for the trial. He would further submit that the case now stands posted to 25.04.2022 and the petitioner apprehends that she may be remanded to judicial custody, therefore, the petitioner would seek that a direction may be issued to the learned Judicial Magistrate-II, Karaikkal to recall the Non-Bailable Warrant on same day of her surrender.

4. Heard the learned counsel and perused the materials available on record.

5. Taking into consideration the facts and circumstances, this Court is of the opinion that the said order cannot be passed by this Court. However, since, the petitioner has volunteered to surrender, the petitioner is directed to surrender before the learned Judicial Magistrate-II, Karaikkal on or before 25.04.2022 and file an application seeking to recall the warrant against her. On such application being made, the learned Judicial Magistrate-II, Karaikkal shall consider the same and pass orders on the recall petition on the same day of her surrender, taking into consideration the merits of the case.

6. Accordingly, this Criminal Original Petition stands disposed of with the above direction.

-S/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

rgi/ham
To
The Judicial Magistrate No.II,
Karaikkal.

+2cc to M/s.P.J.Anitha, Advocate, S.R.No.22108

Cr1.O.P.No.7532 of 2022

GMR(CO)
KM(04/04/2022)