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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23772 of 2021

S.Selvaraj

... Petitioner

Versus

1.R.Balasubramani

2.The Inspector of Police,
Wellington Police Station,
Wellington, The Nilgiris - 643 231.

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to direct the 2nd respondent police to execute the Non-Bailable Warrant dated 26.09.2019 issued in STC No.3914 of 2006 on the file of the learned Judicial Magistrate, Udhagamandalam, against the 1st respondent.

For Petitioner : Mr.J.Bharathi Raja.

For Respondent : Mr.E.Raj Thilak,
No.2 Additional Public Prosecutor

ORDER

The petitioner/complainant filed a case in STC No.3914 of 2006 under Section 138 of the Negotiable Instruments Act against the first respondent. On conclusion of trial, the trial Court convicted the first respondent and sentenced him to undergo simple imprisonment for six months and to pay compensation of Rs.1,00,000/-.

2.Aggrrieved against the same, the first respondent preferred an appeal in Crl.A.No.64 of 2015. The lower appellate Court by judgment dated 18.11.2016 dismissed the appeal confirming the conviction and sentence imposed on him by the trial Court. Thereafter, the accused absconded and he was unable to be secured.



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3. The petitioner filed a memo on 21.08.2019 informing the trial Court that the accused is yet to be secured. Thereafter, the trial Court Viz. Judicial Magistrate, Udhagamandalam sent a Non - Bailable Warrant to the Wellington Police Station to execute the Non Bailable Warrant and secure the accused.

4. The contention of the learned counsel for the petitioner is that the accused is very much available and carrying on his normal avocation. Neither the trial Court nor the respondent police has come to rescue of the petitioner. The petitioner is a man of no big means and this one lakh would make great difference in his life. The petitioner is running from pillar to post, despite the trial Court and the lower appellate Court convicted the first respondent/accused.

5. The learned Additional Public Prosecutor submits that no Non - Bailable Warrant is pending with the Inspector of Police, Wellington Police Station, as and when any Non - Bailable Warrant is received, the same would be executed without any delay.

6. Considering the submissions and also seeing the plight of the petitioners that the first respondent was convicted on 30.09.2015 in STC No.3914 of 2006, thereafter, appeal in CrI.A.No.64 of 2015 came to be dismissed on 18.11.2016, and it is for more than 5 years from the date of judgment, the accused is yet to be secured. The purpose of the petitioner fighting out by filing the case and supporting the prosecution through getting conviction but is unable to receive the compensation amount, for which, he had been striving all these years.

7. In view of the same, the Judicial Magistrate, Udhagamandalam to issue Non Bailable Warrant, if not issued earlier and see that the accused is secured unless he had obtained any relief through legal process.

8. With the above directions, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

mpl/sms



To

1. The Judicial Magistrate,
Udhagamandalam.
2. The Inspector of Police,
Wellington Police Station,
Wellington, The Nilgiris - 643 231.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.23772 of 2021

SR(CO)
GMY(17/02/2022)