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Crl.RC No.205 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.RC No.205 of 2023

PMN Mohan Krishnan

... Petitioner

Vs

A.Palani
Respondent

...

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C. to set aside the order in Crl.M.P.No.953 of 2023 in STC No.38/2022 dated 24.01.2023 passed by the Judicial Magistrate No.1, Tirupattur and consequently, recall the non-bailable warrant issued on 02.09.2022.

For Petitioner : Mr.B.Manoharan

ORDER

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.953 of 2023 in STC No.38/2022 dated 24.01.2023 by the Judicial Magistrate No.1, Tirupattur and consequently, recall the non-bailable warrant issued on 02.09.2022, by considering the



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petitioner's petition, on the same day.

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2. The case of the petitioner is that he is the accused in STC No.38/2022, filed under Section 138 of Negotiable Instruments Act on the file of the Judicial Magistrate Court-No.I, Tirupattur. On 02.09.2022, the petitioner was not able to appear before the Court below and hence, on his behalf, his counsel filed a petition under Section 317 Cr.P.C. But the learned Magistrate refused to accept the same and issued non bailable warrant against the petitioner. The petitioner filed a petition in Crl.M.P.No.953 of 2023 before the Court below, to recall the Non Bailable Warrant issued against him. However, without considering the submission made by the petitioner, the learned Magistrate has dismissed the above petition. Therefore, challenging the above said order, the present Criminal Revision Case has been filed.

3. The learned counsel for the petitioner submitted that the said absence of the petitioner before the Court below is neither willful nor wanton and he undertakes that the petitioner shall appear before the Court below regularly on all future hearing dates without fail.



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4. Considering the facts and circumstances of the case and also taking into account the undertaking given by the learned counsel for the petitioner, the petitioner is directed to appear before the **learned Judicial Magistrate No.I, Tirupattur** , on the next hearing and to file a petition under Section 70(2) of Cr.P.C., to recall NBW already issued against him. On filing of such petition, the concerned **learned Judge** is directed to consider the same on its own merits in accordance with law and pass orders on the same day.

5. It is made clear that while considering the petition to recall, the Court below shall bear in mind about the period of Non Bailable Warrant and any crime committed while pending Non Bailable Warrant. Mere direction issued by this Court to consider the application on the same day does not amount to direction to consider the recall petition favourably.

6. With the above direction, this Criminal Revision Case is allowed



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by setting aside the impugned order passed by the Court below dated
24.01.2023 in Crl.MP No.953 of 2023 in STC No.38,/2022 .

10.02.2023

(2/2)

Internet: Yes/ No

Index: Yes/No

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To

1. The Judicial Magistrate No.I, Tirupattur.

2.The Public Prosecutor, High Court of Madras.



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V.SIVAGNANAM, J

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