



CrI.R.C.No.980 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 13.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.R.C.No.980 of 2023

- 1, M/s.Reliance Cellulose Products Ltd.,
Represented by its Chairman cum
Managing Director,
Mr.Shyamsunder Jhunhunwala,
#3E, Surya Towers, 105, S.P.Road,
Secunderabad – 500 003.
2. Mr.Shyam Sunder Jhunhunwala,
Managing Director,
M/s.Reliance Cellulose Products Ltd.,
Plot No.4 Kausalya Estate, Kharkhana,
Secunderabad – 500 009.
3. Mr.Ashok Kumar Junjhunwala,
Director,
M/s.Reliance Cellulose Products Ltd.,
Plot No.4 Kausalya Estate, Kharkhana,
Secunderabad – 500 009.

.. Petitioners

Vs.

M/s.Kotak Mahindra Bank Limited,
Having its office at
II Floor No.39, Ceebros Centre,
Montieth Road, Egmore,



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Chennai 600 008.

Represented by its Associate Vice President,

Mr.V.Ragothaman

..

Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C praying to call for the records and set aside the impugned order dated 11.05.2023 passed in Crl.M.P.No.2197 of 2023 in C.C.No.390 of 2018 on the file of the FTC-IV, Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.R.Vinorthraja

Government Advocate(Crl.Side)

ORDER

Challenging the order dated 11.05.2023 passed by the learned Metropolitan Magistrate FTC-IV,,George Town, Chennai. in Crl.M.P.No.2197 of 2023 in C.C.No.390 of 2018, this Criminal Revision is filed by the petitioners.

2. Learned counsel for the petitioners submitted that the petitioners are the accused in C.C.No.390 of 2018 on the file of the



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Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai. The respondent/complainant filed a complaint against the petitioners/Accused for having committed punishable offence under Section 138 of N.I.Act. For non appearance of the accused, the trial Court issued the warrant for securing the accused persons. The petitioners filed a petition in Crl.M.P.No.2197 of 2023 on the file of the Metropolitan Magistrate, FTC-IV, George Town, Chennai to recall the warrant without their presence before the trial Court. The trial Court allowed the said application with the following conditions:

- 1. The accused shall appear before this Court and execute a bond for Rs.5,00,000/- with two sureties for the like sum within 15 days from today.*
- 2. The accused shall be represented in each and every hearing by this counsel and he has to cooperate for the speedy trial of the case.*



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3. The learned counsel for the petitioners/accused submitted that the petitioners 2 and 3 are now aged 92 and 72 years respectively and hence, without their appearance before the trial Court, seeking to recall the warrant. He further submitted that the trial Court imposed the condition on the petitioners to execute a bond for Rs.5,00,000/- , which is an onerous one and prays to modify the same.

4. On perusal of records, the fact reveals that the petitioners are the accused in C.C.No.390 of 2018 on the file of the Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai. The respondent/complainant filed a complaint against the petitioners/Accused for having committed punishable offence under Section 138 of N.I.Act For non appearance of the accused, the trial Court issued the warrant for securing the accused persons. Instead of appearing before the trial Court, the petitioners filed a petition in Crl.M.P.No.2197 of 2023 on the file of the Metropolitan Magistrate, FTC-IV, George Town, Chennai to recall the warrant without their



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presence. The purpose of issuing a warrant by the Court is to secure the accused to appear and face the trial before the Court. Hence, without the appearance of the accused before the Court, recalling the warrant is purposeless and the same cannot be permitted. Therefore, without the appearance of the accused before the trial Court, the warrant cannot be recalled. I find no merit in this criminal revision case.

5. Accordingly, this criminal revision case is dismissed. However, the petitioners are at liberty to approach the trial Court to modify the condition with regard to execution of bond for Rs.5,00,000/-. Consequently, connected miscellaneous petition is closed.

13.06.2023

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To

The FTC-IV, Metropolitan Magistrate, George Town, Chennai.



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