



Crl.O.P.No.26853 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

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D.Sivakumar

...Petitioner

Vs.

State by
The Inspector of Police,
Dharapuram Police Station,
Thiruppur District.

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to direct the respondent Inspector of Police, Dharapuram Police Station, Thiruppur District to execute the warrant issued by the learned Judicial Magistrate II at Chengelpattu, dated 26.07.2018 in C.C.No.331 of 2017 and to produce the accused before the Judicial Magistrate II at Chengalpattu.

For Petitioner : Mr.S.Purushothamados

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed seeking a direction to the respondent Police to execute the warrant issued by the learned Judicial Magistrate II at Chengelpattu, dated 26.07.2018 in C.C.No.331 of 2017 and



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to produce the accused before the Judicial Magistrate II at Chengalpattu.

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2. The petitioner has filed a complaint against one Muthamizh Durai for the offence under Section 138 of the Negotiable Instruments Act. During the said proceedings, the warrant was issued to secure the accused. Since the warrant was pending pending for a long time, the petition has filed this petition seeking a direction to the respondent Police to execute the warrant against the accused.

3. When the matter is take up for today, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioner himself is no more and hence nothing survives for further adjudication in this case.

4. Even though the petitioner died, the legal heirs of the deceased petitioner are entitled to continue the proceedings filed under 138 of Negotiable Instruments Act. The respondent Police is duty bound to execute the warrant issued by the trial Judge and they cannot wriggle out of



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his duty, by saying that the petitioner died. Hence the respondent is directed to execute the warrant issued by the learned Judicial Magistrate II at Chengelpattu, dated 26.07.2018 in C.C.No.331 of 2017 and to produce the accused before the Judicial Magistrate II at Chengalpattu as expeditiously as possible.

5. The learned Government Advocate (Crl. Side) submitted that since the accused is not seen in the present address, the accused could not be secured.

6. Though it is not possible for the respondent Police to know about the whereabouts of the accused, it is possible to approach the legal heirs of the deceased petitioner to get the necessary information about the accused. Hence the respondent is directed to give necessary information to the legal heirs about the pendency of the complaint before the learned Judicial Magistrate II, Chengalpattu. In that case, it is possible for the respondent Police to get the present address of the accused also.



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R.N.MANJULA,J.

vum

7. With these observation and direction, this Criminal Original

Petition stands disposed of.

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vum

Index:yes/No

Speaking order / Non speaking order

To

1. The Inspector of Police,
Dharapuram Police Station,
Thiruppur District.
2. The Public Prosecutor,
Madras High Court,
Chennai.

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