



Crl.O.P.(MD)No.4609 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2023

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.4609 of 2023

A.Gnana Subramanian

... Petitioner

Vs.

K.Vasumathy

... Respondent.

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to pass an order by directing the learned Judicial Magistrate, Fast Track Court, Nagercoil, Kanyakumari District, to consider the warrant recall petition of the petitioner of the same day in connection with S.T.C.No.702 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court, Nagercoil, Kanyakumari District.

For Petitioner : Mr.I.Suthakaran

ORDER

This petition is filed seeking direction to pass an order by directing the learned Judicial Magistrate, Fast Track Court, Nagercoil, Kanyakumari District, to consider the warrant recall petition of the petitioner of the same day in connection with S.T.C.No.702 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court, Nagercoil, Kanyakumari District.



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2. The petitioner and the respondent are husband and wife. Due to difference of opinion, both of them separated and the respondent has filed petition under Section 13(b) of the Hindu Marriage Act for dissolving the marriage. At the time of hearing, the respondent did not appear before the trial Court and it was dismissed for default. However, instead of taking steps to restore the divorce proceedings, the respondent initiated the proceedings under Section 138 of Negotiable Instrument Act.

3. Now, the warrant has been issued against him for non-appearance before the trial Court.

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

5. This Court feels that such direction may not be proper. The petitioner is directed to approach the concerned trial Court by setting all the facts and the circumstances of the case to recall the warrant.

6. This Court cannot decide, whether the petitioner got merit or not. No positive direction can be passed. The petitioner is granted liberty to workout his remedy before the concerned Court.



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With the above said liberty, this Criminal Original Petition is dismissed.

13.03.2023

Index : Yes/No
Internet:Yes/No
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To

1. Judicial Magistrate, Fast Track Court, Nagercoil,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.,

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