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CrI.O.P.(MD)No.21528 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.12.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

CrI.O.P.(MD)No.21528 of 2023

Jegan

... Petitioner

Vs.

Pon Lourdhu Bency

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned District Munsif cum Judicial Magistrate, Senkottai to entertain the petition u/s 70(2) of Cr.P.C to recall the Non Bailable warrant issued against the petitioner dt. 29.09.2023 in CrI M.P No. 1715/2023 in D.V.C No. 1/2022

For Petitioner : Mr.A.Jayaramachandran

ORDER

This Criminal Original Petition has been filed to direct the learned District Munsif cum Judicial Magistrate, Senkottai to entertain



the petition u/s 70(2) of Cr.P.C to recall the Non Bailable warrant issued against the petitioner dt. 29.09.2023 in Crl M.P No. 1715/2023 in D.V.C No. 1/2022.

2. The respondent herein has filed a petition in DVC No.1 of 2022 on the file of the learned Judicial Magistrate, Senkottai and by an order dated 03.03.2023, the learned Judicial Magistrate, Chengottai had passed an order directing the petitioner to pay a sum of Rs.11,500/- per month. Since there is a default, a petition in Crl.M.P.No.1715 of 2023 was filed by the respondent herein seeking order for enforcing the same that was also considered and a docket order was also passed NBW was issued against the petitioner. Seeking recall of the NBW, a petition was filed and it is unnumbered. However, on 18.10.2023, the learned Magistrate, has returned the recall petition stating that parties must be present and the petitioner was directed to be present before the Court in person and then only petition can be considered.

3. Challenging the above said order, this petition has been filed to recall the order on the judicial side and contended that the trial Court either would have returned the same or rejected but, passed an interim order in the docket without entertaining, which is not proper.



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4. In my considered view, on that sole ground, the impugned order is liable to be set aside. The petition is restored to file. The trial Court is directed to decide whether the petitioner is required to appear in person to settle the issue or not on merits and decide the issue.

5. With the above observation, this Criminal Original Petition is disposed of.

01.12.2023

Index : Yes/No
Internet : Yes/No
AAV

To

The District Munsif cum Judicial Magistrate, Senkottai



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G.ILANGOVAN. J.

AAV

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