



WEB COPY



CrI.O.P.No.12664 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.12664 of 2024

Jacob Suresh.

... Petitioner/Accused

/versus/

State Represented by

1. The Inspector of Police,
K4 Anna Nagar Police Station,
P Block, 6th Avenue,
Anna Nagar,
Chennai – 600 040.

... 1st Respondent/Third Party

2. M.Nandakumar.

... 2nd Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside the order dated 30.04.2024 passed in CrI.M.P.No.24950 of 2024 in S.T.C/P.C.No.4896 of 2023 on the file of the Learned II Fast Track Judge (Magisterial Level), Allikulam, Chennai and to consequently recall the non-bailable warrant issued against the petitioner.

For Petitioner : Mr.Sharath Chandran

For R1 : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)

For R2 : Mr.G.Ashok Kumar.

ORDER



CrI.O.P.No.12664 of 2024

WEB COPY

The petition filed to recall NBW issued on 24.08.2023 was dismissed by the Court stating that the Court is not satisfied with the reasons stated in the petition. Challenging the said order as non-speaking order, the present petition is filed.

2. The Learned Counsel appearing for the petitioner submitted that the petitioner is seriously ill being diagnostic with end stage liver disorder and therefore, he is not in a position to appear before the Court personally. Hence, he sought for recall of warrant without appearance. However, the trial Court dismissed it without considering the medical condition of the petitioner.

3. It is a case arising out of offence under Section 138 of N.I. Act. When the matter was listed for questioning the accused under Section 313 of Cr.P.C., the petitioner failed to turn up to the Court for answering the question. This has invited to issue Non-Bailable Warrant.

4. From the medical record, this Court finds that the petitioner is not totally immobilized and hospitalized. He is on and off, intermediately admitted in the hospital for treatment. Therefore, his non-appearance cannot be



CrI.O.P.No.12664 of 2024

attached to his health condition and therefore, this Court finds no error in Magistrate order dismissing the application filed under Section 70(2) of Cr.P.C.

5. The Learned Counsel for the respondent/complainant states that the petitioner already been convicted in another cheque bounce case and evading arrest. He also submits that this case is adjourned to 19.07.2024 for further proceedings.

6. In such circumstances, this Court is of the view that to meet the ends of justice, direct the petitioner herein to appear before the concern Court on 19.07.2024 in person and seek for recall of warrant. On such appearance, the trial Court shall recall the warrant and also complete the Section 313 of Cr.P.C proceedings.

7. With the above direction, this Criminal Original Petition is disposed of.

21.06.2024

Index : Yes/No.
Neutral Citation : Yes/No.
bsm

Dr.G.JAYACHANDRAN, J.



CrI.O.P.No.12664 of 2024

bsm

Copy to:-

1. The II Fast Track Judge (Magisterial Level), Allikulam, Chennai
2. The Inspector of Police, K4 Anna Nagar Police Station,
P Block, 6th Avenue, Anna Nagar, Chennai – 600 040.
3. The Public Prosecutor, High Court, Madras.

CrI.O.P.No.12664 of 2024

21.06.2024