



Crl.O.P.(MD)No.21086 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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S.V.Perumal

... Petitioner

Vs.

1.The Inspector of Police,
Jaihindapuram Police Station,
Madurai District.

2.R.P.Venkateswaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the first respondent to execute the Non Bailable Warrant dated 06.11.2023 issued by the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level), Madurai, in S.T.C.No.485 of 2022 against the second respondent.

For Petitioner : Mr.M.P.Senthil

For Respondent : Mr.A.Thiruvadi Kumar (for R1)
Additional Public Prosecutor



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ORDER

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The petitioner is the defacto complainant filed this petition to direct the first respondent to execute the Non Bailable Warrant dated 06.11.2023 issued by the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level), Madurai, in S.T.C.No.485 of 2022 against the second respondent.

2.The case of the prosecution is that on 18.06.2022 the respondent approached the petitioner and borrowed a sum of Rs.3,10,000/- for his family expenses. In spite of repeated demands made by the petitioner, the respondent issued two cheques to the petitioner/defacto complainant bearing Nos.480195 and 480196. While, the presented the said cheques for payment, the same was returned with an endorsement **as** “insufficient funds”. Thereafter, the petitioner sent a legal notice to the second respondent on 03.08.2022. After receipt of the notice, the second respondent neither returned the money nor sent any reply. Hence, the petitioner filed a private complaint for the offence under Section 138 of Negotiable Instruments Act, and the same was taken on file in S.T.C.No. 485 of 2022 by the learned Judicial Magistrate No.1, FTC, Madurai.



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During the trial, bailable warrant was issued as against the second respondent on 22.11.2022. In spite of the bailable warrant issued by the learned judge, he has not appeared. Therefore, the learned trial Judge after payment of batta by the petitioner, a Non Bailable Warrant was issued on 30.03.2023. subsequently, the second respondent surrendered on 23.05.2023 before the learned trial Judge and he accepted the same and recalled the NBW issued against the second respondent. Thereafter, the second respondent has not appeared for more than 5 hearings. Therefore, the learned trial Judge once again issued Non Bailable Warrant was issued on 06.11.2023 against the second respondent and forwarded the same to the first respondent to execute the same. Since there was no execution, this present petition has been filed.

3.The learned counsel appearing for the petitioner/defacto complainant submitted that the learned trial Judge forwarded the NBW against the second respondent to the first respondent to execute the same. Even though the first respondent received the NBW, he did not come forward to execute the same. Hence, he seeks to allow this petition.



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4. When the matter is taken up for hearing today under the caption “for clarification”, this Court clarified the same.

5. In the mean time, the learned Additional Public Prosecutor, on instructions, would submit that the NBW issued by the learned trial Judge against the second respondent on 06.11.2023, is executed by the first respondent.

6. Recording the same, this Court inclines to dispose of the case with the following direction:-

6.1. The learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level), Madurai, is directed to dispose of the case in S.T.C.No.485 of 2022, within a period of six months from the date of receipt of a copy of this order.

7. Accordingly, this criminal original petition is disposed of.

19.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
vsg



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To

- 1.The learned Judicial Magistrate No.I,
(Fast Track Court at Magisterial Level),
Madurai.
- 2.The Inspector of Police,
Jaihindapuram Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

vsg

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