

Negotiable Instruments Act, 1881 (26 of 1881), S. 138 – Criminal Procedure Code, 1973 (II of 1974), Section 446 – Accused on bail – Non appearance – Summons issued for appearance returned by the serving agency, with the report that service could not be effected – Consequently, the appropriate course in law, was to order for the issuance of a Court notice upon the petitioner, for ensuring that he records his personal appearance before her – Nonetheless, in a most slipshod, and, posthaste manner, and, without adopting the afore procedure, the learned Judicial Magistrate Ist Class rather proceeded to make an order cancelling the personal and surety bonds, for ensuring his personal appearance – There has been the utmost departure from the procedure contemplated in the Cr.P.C., for ensuring the presence of the errant accused – It was rather open for the learned court to either re-issue summons or to issueailable warrants, and, only on failure of obedience thereto, to proceed to issue non-ailable warrants – Issuance of non-ailable warrants, without any tangible evidence existing on record, that there being any willful non-appearance of the accused does make a deep intrusion into the personal liberty of the petitioner, and, requires to be undone – Order issuing non-ailable warrants quashed.

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