

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.09.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

CRL. O.P. No. 24016 of 2015
and
M.P.No.1 of 2015

1.K.G.Muthuvenkateshwaran

2.Preeti

3.Subramaniam

4.Chitrakala

5.Sathyaseelan

6.Jayanthi

7.Padmavathi,W/o.Gopalakrishnan

8.P.Gopalakrishnan

9.Padmavathi, W/o.Selvaraj

10.C.Selvaraj .. Petitioners /Petitioners/
Accused Nos.1,2, 5 to 12

Versus

R.Divya .. Respondent/Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order dated 15.09.2015 made in C.M.P.No.5312 of 2015 in C.C.No.21 of 2014 on the file of the learned Judicial Magistrate, Palladam.

For Petitioners : Mr.V.Lakshminarayanan for
Mr.M.Guruprasad

For Respondent : Mr. P.M. Duraisamy

O R D E R

The petitioners have come up with this petition praying to set aside the order dated 15.09.2015 made in C.M.P.No.5312 of 2015 in C.C.No.21 of 2014 on the file of the learned Judicial Magistrate, Palladam. By the said order, the learned Judicial Magistrate, Palladam dismissed the petition filed by the petitioners to recall the non bailable warrant issued to them.

2. The petitioners are arrayed as A-1, A-2, A-5 to A-12 in C.C. No. 21 of 2014 before the learned Judicial Magistrate, Palladam. The criminal proceedings came to be initiated against the petitioners by the respondent herein complaining that the petitioners have committed the offences punishable under Sections 494, 494 r/w 109, 498-A, 498-A r/w 34 and 498-A IPC. When the Criminal case was taken up for hearing, the petitioners did not appear before the trial Court on 11.09.2015 and therefore, the learned Judicial Magistrate issued Non Bailable Warrant against the

petitioners. Immediately, the petitioners have filed C.M.P. No. 5311 of 2015 for advance the hearing of the Calander Case and C.M.P.No. 5312 of 2015 to recall the warrant issued against the petitioners. The learned Judicial Magistrate, Palladam has passed the order dated 15.09.2015 refusing to recall the warrant issued against the petitioners and dismissed the above said petitions. As against the order passed in CMP No. 5312 of 2015 dated 15.09.2015, the present Criminal Original Petition is filed.

3. The learned counsel appearing for the petitioners submitted that the petitioners have been falsely implicated in this case by the defacto complainant and they are no way connected with the alleged offence. He further submitted that the 1st petitioner filed Transfer Petition in Crl.O.P.No.23404 of 2015 before this Court to transfer the trial in C.C. No. 21 of 2014 to some other Court and the same is pending. Even though the petitioners have filed the petition for recalling the non bailable warrant issued against them immediately, without any valid reasons, the Court below refused to recall the warrant. The learned counsel for the petitioners also submitted that the petitioners are ready and willing to cooperate with the trial proceedings and therefore he prayed for allowing this Criminal Original Petition.

4. The learned Government Advocate [Criminal Side] submitted that Non-Bailable Warrant is pending against the petitioners as the petitioners did not appear before the trial Court on earlier occasions. Therefore, to secure the presence of the petitioners, the non bailable warrant was issued by the learned Judicial Magistrate, Palladam and such an order does not warrant any interference by this Court.

5. I heard the counsel for both sides and perused the records. Having regard to the fact that the petitioners have filed C.M.P. No. 5312 of 2015 immediately to recall the warrant issued by the trial court and the petitioners are also ready and willing to co-operate with the trial proceedings, this Court feels that in the interest of justice, the order dated 15.09.2015 made in C.M.P.No.5312 of 2015 in C.C.No.21 of 2014 on the file of the learned Judicial Magistrate, Palladam is liable to be set aside.

6. Accordingly, the order dated 15.09.2015 passed in CMP No. 5312 of 2015 in CC No. 21 of 2014 on the file of the learned Judicial Magistrate, Palladam is set aside and this Criminal Original Petition is ordered subject to the condition that the petitioners shall appear before the learned Judicial Magistrate, Palladam on the next date of hearing namely 09.10.2015 and to file a petition under Section 70 (2) of Criminal Procedure Code. In the event of filing such an application by the petitioners, the learned Judicial Magistrate, Palladam is directed to consider it and pass orders on merits and in accordance with law on the same day by imposing necessary conditions. As the petitioners are 10 in number, the learned Judicial Magistrate, Palladam shall consider their request to permit them to offer only six sureties for all the ten petitioners inasmuch as it would be difficult for the petitioners to execute 2 sureties each for 10 petitioners, totalling 20 sureties. The petitioners have undertaken to appear before the trial court on all dates of hearing regularly, till the

conclusion of the trial, except on those days by filing petition under Sec. 317 of Cr.P.C and the said undertaking is recorded. The learned Judicial Magistrate, Palladam is also directed to conduct the calender case pending in C.C.No.21 of 2014 as expeditiously as possible subject to the result of the Transfer Petition in CrI.O.P.No.23404 of 2015 filed by the first petitioner, pending before this Court.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

sri/rsh

To

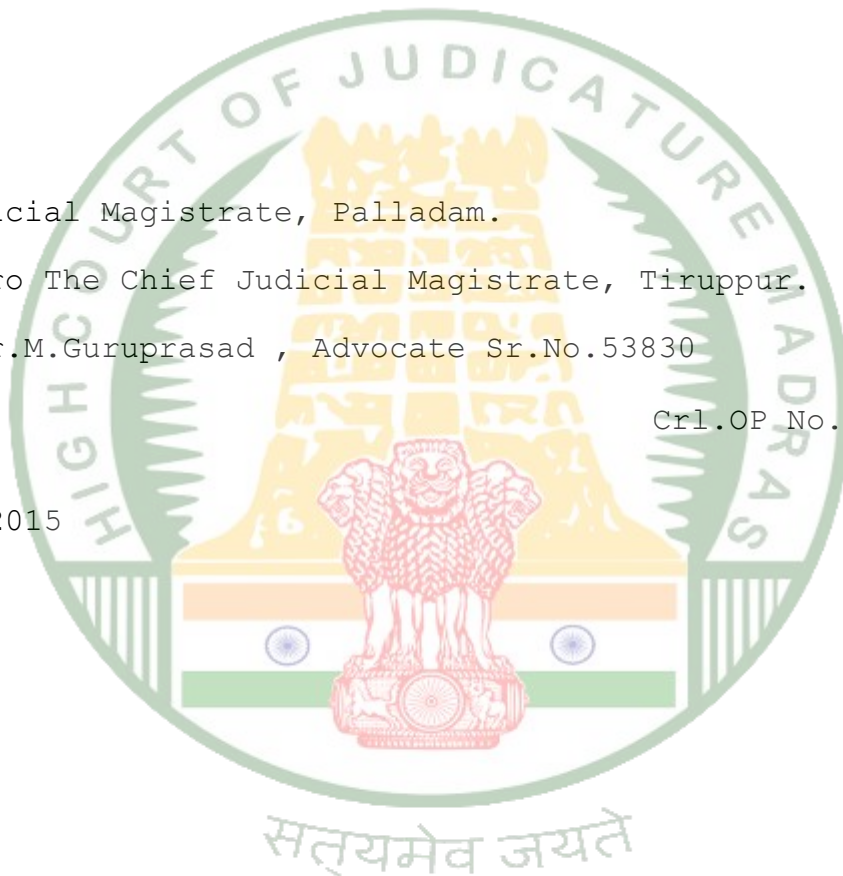
1.The Judicial Magistrate, Palladam.

2.-do- thro The Chief Judicial Magistrate, Tiruppur.

5 cc to Mr.M.Guruprasad , Advocate Sr.No.53830

CrI.OP No. 24016 of 2015

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