



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.01.2015
CORAM :

THE HONOURABLE MR.JUSTICE C.T.SELVAM

WEB COPY

CRL.OP(MD)No.165 of 2015

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... Petitioner/Accused No.3

The State of Tamilnadu,
Rep. by its Inspector of Police,
Karungal Police Station,
Kanyakumari District.
Crime NO. 62 of 1995

...Respondent/Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to direct the District and Sessions Court, Nagercoil to entertain the petition filed by the petitioner under Section 70(2) of Criminal Procedure code for recall of warrant issued against him in the case in S.C.NO.85 of 2008 on the file of the District and Sessions Court, Nagercoil and pass orders on merit on the same day on the recall of warrant petition and pass such further or other orders as this Court may deem fit and proper in the above facts and circumstances of the case.

For Petitioner : Mr.Ananth C.Rajesh

For Respondent : Mr.K.V.Rajarajan,
Government Advocate (Crl. Side)

O R D E R

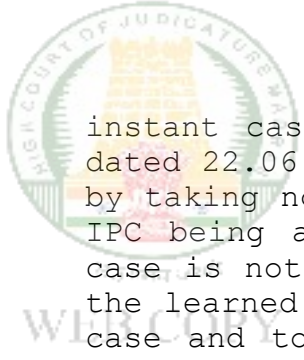
This petition has been filed under Section 482 Cr.P.C., praying for a direction to the District and Sessions

Court, Nagercoil, to entertain the petition filed by the petitioner under Section 70(2) of Criminal Procedure code for recall of warrant issued against him in the case in S.C.NO.85 of 2008 on the file of the District and Sessions Court, Nagercoil.

2.Heard the learned counsel for the petitioner and also the learned Government Advocate(Crl. Side) appearing for the respondents.

3. The petitioner informs that the petition moved by the petitioner to recall Non Bailable Warrant issued against him was not entertained by the Sessions Court since a petition for anticipatory bail moved by him was rejected.

4. It is the duty of the court concerned to consider a petition seeking recall of Non Bailable Warrant on merits. Mere dismissal of anticipatory bail petition would not stand in the way of the court considering the petition to recall Non Bailable Warrant on merits. In doing so, the court may either recall or refuse to recall the Non Bailable Warrant issued by the court. Having said so, we note that in the



instant case this Court had passed an order in CrI.O.P.No.4784 of 2005 dated 22.06.2005 whereby the relief of bail was granted to the petitioner by taking note of the occurrence involving offence also under Section 302 IPC being as early as of 20.02.1995 and that the long pendency of the case is not owing to abscondence of this petitioner. It is submitted by the learned counsel for the petitioner that owing to long pendency of the case and to eke out his livelihood, the petitioner had been abroad and hence, Non Bailable Warrant was issued against him.

5. Considering the above aspects, this Court would direct the court below to consider the petition seeking recall of Non Bailable Warrant against the petitioner without insisting upon the appearance of the petitioner before it. The submission of the learned counsel for the petitioner that the petitioner would duly co-operate in conduct of trial is recorded. Any attempt for protraction of proceedings by the petitioner may be seriously viewed by the court below.

Sd/-

Assistant Registrar(RTI)

\\True copy\\

Sub Assistant Registrar

To

- 1)The District and Sessions Court, Nagercoil
 - 2)The Inspector of Police,MKarungal Police Station,
Kanyakumari District.
 - 4)The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.
- +1 CC TO M/S.ANANTH C. RAJESH, ADVOCATE SR.NO.1423

CRL.OP (MD) No.165 of 2015
12.01.2015

SES
NA/02/02/2015/P2/5C