



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2015

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**Cr1.O.P. (MD) No.22256 of 2015**

WEB COPY

Anand @ Anandhan

... Petitioner

Vs.

The Inspector of Police,
Manikandam Police Station,
Trichy District
(In Crime No.427 of 2004)

... Respondent

Prayer: Petition filed under Section 482 of Code of Criminal Procedure, praying to direct the I Additional District cum (PCR) Court, Trichy to consider his recall warrant petition for recalling the Non Bailable Warrant dated 30.05.2014 in SPL.S.C.No.35 of 2005 upon his surrender on merits and in accordance with law.

For Petitioner	: Mr.K.Sivabalan
For Respondent	: Mr.A.P.Balasubramani
	Govt. Advocate (Cr1.Side)

O R D E R

This Criminal Original Petition has been filed, praying to direct the I Additional District cum (PCR) Court, Trichy to consider the petitioner's recall warrant petition for recalling the Non Bailable Warrant, dated 30.05.2014 in SPL.S.C.No.35 of 2005 upon his surrender on merits and in accordance with law.

2. Mr.K.Sivabalan, counsel appearing for the petitioner submitted that the petitioner is arrayed as Accused No.3 in Crime No.427 of 2004, for the offences under Sections 147, 148, 341, 324, 307 and 302 of IPC., r/w. Section 3(ii) (V) of SC/ST Act, said to have taken place on 26.07.2004. He would further submit that now the case has been charge sheeted and numbered as Special S.C.No.35 of 2005, on the file of 1st Additional Sessions Judge cum PCR Court, Trichy. Adding further he would submit that the petitioner has come out on bail and appeared before the trial Court regularly and due to absent on one hearing on 30.05.2014, a Non Bailable Warrant has been issued. Therefore, the petitioner has filed a petition in Cr.M.P.No.21 of 2015 for recalling the Non-Bailable Warrant issued in Spl.S.C.No.35 of 2005 and the same has been dismissed. Concluding his argument, learned counsel appearing for the petitioner would submit that, now, petitioner is willing to surrender before the Court below and file a petition to recall the NBW and the same may be ordered to be considered.

3. When the matter came up for hearing on 04.12.2015, Mr.A.P.Balasubramani, the Government Advocate (crl.side) appearing for the prosecution, strongly opposed the relief sought for by the



petitioner, stating that the petitioner/A3 has got five previous cases. It is seen from the perusal of the records that on 17.08.2012, a Non-Bailable Warrant has been issued and since this fact has not reflected in the petition, this Court directed the respondent police to file a counter / status report and case diary. Accordingly, today, a status report has been filed by the respondent. It is averred in the status report that one Ravi @ Muttai Ravi and his rival party murdered one Kuttai James and in order to wreck vengeance, the petitioner/A3, who belongs to the opposite group, along with other accused, murdered the above said three persons. It is further averred that the petitioner/A3 surrendered before the Judicial Magistrate No.II, Nagapattinam and was remanded to judicial custody before being released on bail. The case was pending trial in S.C.No.35 of 2005, on the file of 1st Additional Sessions Judge cum PCR Court, Trichy. During the bail period, the petitioner never turned up for the hearing. Hence, the prosecution could not produce the petitioner/A3, for questioning the accused. Finally, the 1st Additional Sessions Judge cum PCR Court, Trichy. issued a Non Bailable warrant against the petitioner.

4. I have heard the counsel appearing on either side and perused the materials available on record, including the case diary.

5. It is very unfortunate that earlier, a Non-Bailable Warrant has been issued by the 1st Additional Sessions Judge cum PCR Court, Trichy and the same has not been disclosed in the status report as well as the records produced. When this Court posed a question to the petitioner, in respect of NBW, he submitted that there was an NBW and which was ultimately recalled. This Court never expected the petitioner as well as the respondent to come with non-disclosure of these facts. This kind of status report makes the court thinks whether there is a collusion between the police officials and the accused. Therefore, the authorities are directed to look into the status report produced before this court and to find out the facts. The petitioner/A3 has also not come before this Court with clean hands. The prayer of the petitioner to consider his recall warrant petition for recalling the Non-Bailable Warrant, cannot be granted in view of the reasons stated supra

6. In the result, the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To:

1. I Additional District cum (PCR) Court, Trichy
2. The Inspector of Police,
Manikandam Police Station, Trichy District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.