



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.12.2015

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN  
CRL.OP.(MD)No.22903 of 2015

Haji Abusali  
S/o.Abdul Rahman Ambalam  
2/457 East Street  
Periyapattinam  
Ramanathapuram  
Ramanathapuram District

: Petitioner

Vs.

1.The Superintendent of Police  
Theni District, Theni.

2.The Inspector of Police  
Keelakudalur Circle Police Station,  
Uthammapalayam Taluk  
Theni District

: Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to direct the respondent Nos.1 and 2 to execute the warrant issued by the Chief Judicial Magistrate, Ramanathapuram, and secure the custody of the accused, namely, Muniyappan in order made in C.C.No.1 of 2011 dated 28.04.2014.

For Petitioner :Mr.J.Sulthan Basha for  
M/s.Ajmal Associates

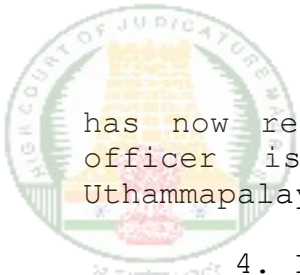
For Respondents :Mrs.S.Prabha  
Government Advocate(Crl. Side)

## O R D E R

The petitioner has come forward with this petition praying to direct the respondent Nos.1 and 2 to execute the warrant issued by the Chief Judicial Magistrate, Ramanathapuram, and secure the custody of the accused, namely, Muniyappan in order made in C.C.No.1 of 2011 dated 28.04.2014.

2. It is the case of the petitioner that the accused, after obtaining an order dated 07.03.2014 stating that he is entitled to file a petition under Section 70(2) Cr.P.C., to recall the warrant. However, the petitioner did not surrender and filed a petition under Section 70(2) Cr.P.C. and hence, non bailable warrant dated 28.04.2014 was issued by the Magistrate is the contention of the petitioner.

3. The Government Advocate (Crl. Side) would submit that it is true that the accused did not appear and being a police personnel, he ought to have appeared. He would further submit that the said officer



has now retired and the warrant is yet to be executed and the said officer is residing in Angurpalayam, Keel Gudalur Police limit, Uthammapalayam Taluk, Theni District, after his retirement.

4. In view of the above, the 1<sup>st</sup> respondent is directed to execute the warrant at the earliest and in case, any application under Section 70 (2) Cr.P.C. is filed to recall the warrant again, the trial Court can decide the same by giving opportunities to the parties to make their submissions and the application to be decided in accordance with law.

The Criminal Original Petition stands disposed of with the above direction.

Sd/-  
Assistant Registrar (Per. Admn)

/True copy/

Sub Assistant Registrar

To

1. The Superintendent of Police  
Theni District, Theni.

2. The Inspector of Police  
Keelakudalur Circle Police Station,  
Uthammapalayam Taluk  
Theni District

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

4. The Chief Judicial Magistrate, Ramanathapuram

sm:JGB-DP:31.12.2015:2p/5C

Order made in  
CRL.OP. (MD) No.22903 of 2015  
Dated:-  
03.12.2015