



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2015

CORAM:

THE HONOURABLE MRS.JUSTICE S.VIMALA

Criminal Revision Case (MD)No.465 of 2015

Mariappan

.. Petitioner/Petitioner/Accused No.2

Vs.

State Rep. by

The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.

(Crime no.321 of 2012) .. Respondent/Respondent/Complainant

Prayer : Revision is filed under Section 397 (1) r/w 401 Cr.P.C. to call for the records in Cr.M.P.No.305 of 2015 in S.C.No.370 of 2013 dated 15.06.2015 on the file of the learned Assistant Sessions Judge, Ambasamudram, Tirunelveli District and set aside the same.

For Petitioner : Mr.A.Thiruvadikumar

For Respondent : Mr.P.Kandasamy
Government Advocate (crl. side)

ORDER

The dismissal order passed by the Assistant Sessions Judge, Ambasamudram in S.C.No.370 of 2013 dismissing the petition to recall the Non-Bailable Warrant is under challenge in this revision petition.

2.The petitioner is an accused, who is stated to have committed the offences under Sections 294(b) and 307 r/w 34 IPC. It appears that three of the accused persons surrendered before the Court on the same day and the Court while choosing to recall the warrant as against A1 and A3, has dismissed the petition for A2 on the ground that once before warrant was recalled on 18.08.2014; subsequently, A2 did not appear and hence, the warrant was pending as against A2.

3.As the second accused escaped from the custody of the Court, a case has been registered against him under Sections 224 and 353 of the offences under Sections 224 and 353 IPC, the learned Judicial Magistrate, Ambasamudram has granted him bail in Cr.M.P.No.3208 of 2015.



4. Now, the only point to be considered is whether the conduct of A2 will permit the Court to consider his request for recalling of the Non-Bailable Warrant issued against him.

5. The learned counsel for the petitioner would submit that the escape from the custody of the Court was not willful and intentional and it was out of innocent mistake or misapprehension that he is also granted the benefit of warrant recall like that of A1 and A3.

6. The chances of misapprehension is very less and it seems to be not a case of ignorance or misapprehension. However, the fact remains that the second accused has been already granted bail in respect of the offences under Sections 224 and 353 IPC.

7. There is an assurance that the accused herein will not disobey the process of law and he will appear before the Court, as and when directed.

8. Considering the assurance made, the learned Assistant Sessions Judge, Ambasamudram, Tirunelveli District is directed to consider the application to recall the warrant, if filed, on the same day of his surrender.

9. This Criminal Revision Petition is disposed of accordingly.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Assistant Sessions Judge, Ambasamudram,
Tirunelveli District.
2. The Principal District and Sessions Judge,
Tirunelveli District.
3. The Inspector of Police,
Kallidaikurichi Police Station,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai
+lcc to Mr. A. Thiruvadikumar, Advocate Sr.No.61409

rj2

AA/AMF/AR-II/19.11.2015/2p-6c

Cr1.R.C. (MD) No.465 of 2015
15.10.2015