

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 05.07.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

CrI.O.P.No.14037 of 2016

Smt.Solu C.Daniel

... Petitioner

Vs.

1.The State, represented by Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Shastri Bhavan,
Chennai-600 006.

2.The Commissioner of Police,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Periyamet,
Chennai-600 007.

3.The Inspector of Police,
Velachery Main Road,
Selaiyur,
Chennai-600 073.

... Respondents

Criminal Original Petition filed under Section 428 of Cr.P.C. seeking to direct the learned Chief Judicial Magistrate, Coimbatore, to consider the warrant recall application on the same day in C.C.No.2 of 2008 on the file of the Chief Judicial Magistrate, Coimbatore and restrain the respondents 2 & 3 from executing the warrant.

For Petitioner : Mr.R.Shanmugha Sundaram, Senior Counsel
M/s.S.Buvaneswari

For Respondents : Mr.K.Srinivasan, Spl PP for CBI Cases

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ORDER

The petitioner herein is an accused in C.C.No.2 of 2008 pending on the file of the learned Chief Judicial Magistrate, Coimbatore. The present petition has been filed by the

petitioner seeking to direct the learned Chief Judicial Magistrate, Coimbatore to consider the warrant recall petition, to be filed by the petitioner, on the same, and to restrain the respondents from executing the Non-Bailable Warrant issued against the petitioner.

2.It is stated by the petitioner that the respondents/CBI has filed a chargesheet against the petitioner herein and one Dr.Paulson Yesudian/A1 for the alleged offence under Section 120-B r/w 406 IPC and Section 23(1), 25 r/w Sections 4, 6 and 13 of the Foreign Contribution Regulation Act, 1976 and the chargesheet was taken on file as C.C.No.2 of 2008 on the file of the learned Chief Judicial Magistrate, Coimbatore. The petitioner had filed a discharge petition in CrI.M.P.No.186 of 2009 in C.C.No.2 of 2008; but, the said discharge petition was dismissed by the learned Chief Judicial Magistrate, Coimbatore, against which the petitioner has filed a revision in CrI.R.C.No.1326 of 2010 before this Court and the same is pending. Along with the said Revision, the petitioner has also filed a petition in CrI.M.P.No.1 of 2010 seeking for interim stay of the proceedings in C.C.No.2 of 2008 pending on the file of the learned Chief Judicial Magistrate, Coimbatore. This Court, by order dated 04.01.2011 has granted interim stay of the proceedings in C.C.No.2 of 2008 pending on the file of the learned Chief Judicial Magistrate, Coimbatore. While so, the petitioner came to know that on 22.06.2016, a non-bailable warrant has been issued by the learned Chief Judicial Magistrate, Coimbatore against the petitioner as he was absent on that day. According to the petitioner, her counsel was unable to appear before the Court below on 22.06.2016 due to the reason of continuous boycott by the advocates. The petitioner was also not aware of the continuous boycott and she was under the impression that due to grant of stay by this Court in CrI.M.P.No.1 of 2010 in CrI.R.C.No.1326 of 2010, her presence would not be required before the Court below. It is further stated by the petitioner that she is undergoing treatment for Varicose Veins, in Priyam Clinic Happy Healing Hospital, and she was advised by the Doctor, not to travel and stand up continuously. Hence, she could not appear before the Court below on 22.06.2016. Since the non-bailable warrant has been issued on 22.06.2016, the petitioner has come forward with the present petition for the relief as stated supra.

3.Heard both sides and perused the materials available on record.

4.The learned Senior Counsel appearing for the petitioner, by producing a copy of the order passed by a learned Single Judge of this Court in CrI.O.P.No.4514 of 2016, dated 02.03.2016, submitted that in an identical situation this Court has given direction to the Court below to entertain the warrant

recall petition filed by the petitioner therein. Following the said order, I am of the opinion that similarly directions could be issued in this petition also.

5. Accordingly, the petitioner is directed to file a petition to recall the warrant issued against her, within a period of one week from the date of receipt of a copy of this order. On receipt of such recall petition, the learned Chief Judicial Magistrate, Coimbatore is directed to entertain the recall petition without insisting upon her presence in the Court, and to direct the Police to return the NBW. Further, the learned Chief Judicial Magistrate, Coimbatore is directed to continue the proceedings as devised under the Code of Criminal Procedure, 1973.

With the above direction, the criminal original petition is disposed of.

ssv

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

To

1. The Chief Judicial Magistrate,
Coimbatore.
 2. The Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Shastri Bhavan,
Chennai-600 006.
 3. The Inspector of Police,
Velachery Main Road,
Selaiyur, Chennai-600 073.
 4. The Public Prosecutor, High Court, Madras.
- + 3 ccs to M/s. S. Bhuvaneswari, Advocate Sr 37552

KR/6/7/16

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