

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.09.2016

CORAM

THE HONOURABLE Ms.JUSTICE G.CHOCKALINGAM

CRIMINAL REVISION CASE No.1091 of 2016

and

C.M.P.No.9470 of 2016

Mr.Kumar

...Petitioner

vs.

The State:
By Inspector of Police,
Koradacherry Police Station,
(Cr.No.17/2014)
Thiruvavarur.

....Respondent

Criminal Revision Case filed under Sections 397 and 401 of Code of Criminal Procedure to set aside the order dated 23.08.2016 passed by the learned Principal Sessions Judge, Tiruvavarur in Crl.M.P.No.1250 of 2016 in S.C.No.123 of 2015 and direct the learned Principal Sessions Judge to re-call the NBW issued on 29.02.2016 and proceed with the case.

For Petitioner .. Mr.P.Thiagarajan

For Respondent ...Ms.M.F.Shabana,
Govt. Advocate (Crl.side)

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O R D E R

The present criminal revision has been filed by the petitioner challenging the order dated 23.08.2016 passed by the learned Principal Sessions Judge, Tiruvavarur in Crl.M.P.No.1250 of 2016 in S.C.No.123 of 2015 and to re-call the Non Bailable Warrant issued on 29.02.2016.

2. The learned counsel for the petitioner has submitted that the petitioner was arrested on 14.01.2014. After investigation, charge sheet was filed on 03.06.2014 and the case was taken on file in P.R.C.No.7 of 2015 on the file of the learned Judicial Magistrate, Thiruvavarur and subsequently, the said case was committed by the learned Principal Sessions Judge, Thiruvavarur in S.C.No.123 of 2015 and the same is pending. He has further submitted that the petitioner is attending the case regularly and finally, the case was posted on 29.02.2016. Since the petitioner was severely affected by jaundice and taken siddha medicine, he was not able to attend the Court on that day and surrender before the learned Judge. Hence, his absence was neither willful nor wanton. But, the learned Judge, without considering the reasons stated by the petitioner, issued a Non Bailable Warrant on the same day itself. Subsequently, the petitioner surrendered and filed a petition in CrI.M.P.No.1250 of 2016. The learned Judge dismissed the said petition and remanded the petitioner to the custody. Hence, the petitioner has come forward with the present criminal revision case.

3. The learned Government Advocate (CrI.side) filed a report stating that the petitioner did not appear before the trial Court on 16.11.2015 and a non bailable warrant was issued against him. Then the petitioner surrendered before Court. Hence, non bailable warrant was recalled on 17.11.2015. Again, the petitioner did not appear before the trial Court on 29.02.2016 and therefore, another non bailable warrant was issued and the same was pending from 29.02.2016 to 18.08.2016. Thereafter, the petitioner surrendered before the trial Court on 18.08.2016 and remanded to custody till 31.08.2016. Hence, the criminal revision case filed to recall the non bailable warrant is liable to be dismissed.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal side) and perused the materials available on record.

5. It is seen from the records that already a non bailable warrant was issued to the petitioner on 16.11.2015 for his non appearance before the trial Court and the same was recalled on 17.11.2015. Again, the petitioner failed to appear before the trial Court on 29.02.2016. Hence, another non bailable warrant was issued to the petitioner on the same day itself. Thereafter, the petitioner filed a petition to recall the warrant and the same was dismissed. Since the petition to recall the warrant was dismissed, the warrant was also executed and the petitioner is in custody. Therefore, this Court is of the view that there is no reason to interfere with the order passed by the trial

Court. Hence, the criminal revision case is dismissed. The petitioner is at liberty to approach the trial Court to file a fresh bail petition in accordance with law. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Chief Judicial Magistrate,
Tiruvarur.
- 2.The Judicial Magistrate,
Thiruvarur.
- 3.Thro The Chief Judicial Magistrate,
Thiruvarur.
- 4.The Principal Sessions Juge,
Tiruvarur.
- 5.The Superintendent,
Central Prison,
Trichy.
- 6.The Inspector of Police,
Koradacherry Police Station,
(Cr.No.17/14) Thiruvarur.
- 7.The Public Prosecutor,
High Court, Chennai.

+1cc to M/S.P.Thiagarajan, Advocate Sr.51017

Cr1.R.C.No.1091 of 2016

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