

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM

THE HONOURABLE MS.JUSTICE R. MALA

CRL.O.P.No.6732 of 2016

Vairam @ Vairamuthu

.. Petitioner/A.1

.. Vs ..

State by,

Inspector of Police,
Kundrathur Police Station,
Chennai.

(Crime No.918 of 2003)

.. Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order passed by the learned Sessions Judge, Sessions Court No.II, Kancheepuram, in C.M.P.No.305 of 2016 in S.C.No.89 of 2010, dated 24.02.2016 and direct the trial Court to recall the Non-Bailable Warrant issued as against the petitioner without insisting physical presence of the petitioner.

For Petitioner : Mr.T.R.Ravi

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

The petitioner has come forward with this petition seeking to set aside the order passed by the learned Sessions Judge, Sessions Court No.II, Kancheepuram, in C.M.P.No.305 of 2016 in S.C.No.89 of 2010, dated 24.02.2016 and direct the trial Court to recall the Non-Bailable Warrant issued as against the petitioner without insisting physical presence of the petitioner.

2. The learned counsel for the petitioner would submit that the petitioner is facing trial in S.C.No.89 of 2010 for the alleged offences punishable under Sections 148, 149, 341, 307, 302 IPC r/w. Sections 109 & 120(b) IPC before the learned District and Sessions Judge No.2, Kancheepuram. The petitioner was regularly attending the Court, but he was absent on

05.08.2015 and a petition under Section 317 of Cr.P.C. was filed to condone his absence. But the said petition was returned by the Court and a Non-bailable Warrant was issued as against the petitioner. The learned counsel for the petitioner further submitted that the petitioner has filed a petition under Section 70(2) of Cr.P.C. to recall the warrant issued against him. The trial Court, considering all the aspects, dismissed the said petition on 24.02.2016 stating that the physical presence of the petitioner before the Court is necessary to recall the warrant. The learned counsel for the petitioner also submitted that twice the petitioner's life was targeted by the rival groups in the Court campus, while he was attending the hearing and some of the persons were apprehended by the Chennai City Police. The petitioner is apprehending danger to his life to appear before the concerned Court and hence, he has come forward with this petition for the above stated relief.

3. At this juncture, the learned Additional Public Prosecutor would submit that if the petitioner will appear before the Court, nothing will be happened and hence, he prayed for dismissal of the petition.

4. This Court has considered the rival submissions made by the learned counsel on either side and perused the records.

5. It is an admitted fact that when the petitioner was appearing before the Court, the rival groups have attempted to attack the petitioner. In such circumstances, I am of the view that it is a fit case for giving a direction to the learned Sessions Judge, Sessions Court No.II, Kancheepuram. Accordingly, the learned Sessions Judge, Sessions Court No.II, Kancheepuram, is directed to consider the petition filed by the petitioner for recalling the Non-Bailable Warrant in his absence. The petitioner is directed to appear before the Court as and when his presence is required by the Court.

6. With the above directions, this Criminal Original Petition is disposed of.
Jrl

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The Sessions Judge,
Sessions Court No.II,
Kancheepuram.

2. The Inspector of Police,
Kundrathur Police Station,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.T.R.Ravi, Advocate SR 23019

nrII (co)
prk27/4

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