



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.OP(MD) No.5860 of 2016

WEB COPY

1.Karthick @ Karthikeyan

2.Sasitharan

..Petitioners

Vs

1.The Superintendent of Police,
Thanjavur District, Thanjavur.

2.The Inspector of Police,
Orathanadu Police Station,
Thanjavur District.

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to direct the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District to consider the petition filed under Section 70(2) Cr.P.C. on the same day to recall the warrant which has been issued against the petitioner and they may be released on bail in Crime NO.94 of 2009 of Orathanadu Police Station of PRC No.1 of 2015 in the file of the District Munsif cum Judicial Magistrate, Orathanadu.

For Petitioner :Mr.S.Pari

For Respondents :Mrs.S.Prabha

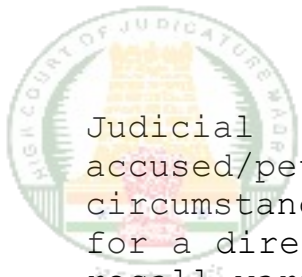
Government Advocate(CrI.Side)

O R D E R

This petition has been filed to direct the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District to consider the petition filed under Section 70(2) Cr.P.C. on the same day to recall the warrant which has been issued against the petitioner and they may be released on bail in Crime NO.94 of 2009 of Orathanadu Police Station of PRC No.1 of 2015 in the file of the District Munsif cum Judicial Magistrate, Orathanadu.

2. Heard the learned counsel for the petitioner and the learned Government Advocate(CrI.Side) appearing for the State.

3. It is seen that the respondent police registered a case in Cr.No.94 of 2009 on 06.03.2009 and after completing investigation, the respondent police file a final report in P.R.C.No.28 of 2014 before the learned Judicial Magistrate, Orathanadu under Section 294(b), 447, 332 and 353 I.P.C. and Section 3(1) of PPDL Act. Since the PPDL Act is triable by the Court of Sessions, the case has to be committed by the Magistrate under Section 209 Cr.P.C.. The petitioners were absconding and the case against them was split up and numbered as P.R.C.No.1 of 2015 and now NBW has been issued by the learned



Judicial Magistrate for securing the presence of the accused/petitioners under Section 204 Cr.P.C. Under such circumstances, the petitioners have come up with this petitioner for a direction to the trial Court to consider the application for recall warrant on the same day.

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4. The learned Counsel for the petitioner relied upon the judgment of this Court in Francis Xavier Vs. Neelamegam, Inspector of Police, Pondy Bazaar Police Station, Madras reported in 1995 MLJ Criminal 288.

5. Even in the said judgment, this Honourable Court has stated as follows:

"However, this Court will exercise its self-imposed restraint and direct the concerned parties to approach the Court below to redress their respective grievance according to specific provision given under the Code of Criminal Procedure."

6. Since the offences are non-bailable, a direction as sought for cannot be granted. However, it is open to the petitioners to file an application for anticipatory bail under Section 438 Cr.P.C.

7. with the above observations, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

Madurai Bench of Madras High Court,
Madurai.

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To

1.The Superintendent of Police,
Thanjavur District, Thanjavur.

2.The Inspector of Police,
Orathanadu Police Station, Thanjavur District.

3. The District Munsif-cum-Judicial Magistrate,
Orathanadu, Thanjavur District.

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

RG.JGB-SS/ 10.05.2016 2P.5C

Cr1.OP No.5860 of 2016

22.04.2016