



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2017

CORAM

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P.(MD) No.3418 of 2017

WEB COPY

Chellapandian

... Petitioner

-vs-

State rep. by
The Inspector of Police,
Kallidaikurichi Police Station,
Kallidaikurichi
Tirunelveli District

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the order of the learned Judicial Magistrate, Ambasamuthiram, Tirunelveli District dated 27.02.2017 made in C.C.No.154 of 2016 of issuing non bailable warrant as against the petitioner for his non appearance before the said Court on 27.02.2017 forthwith.

For Petitioners	: Mr.S.Palanivelayutham
For Respondents	: Mr.A.P.Balasubramani
	Govt. Advocate (Crl.Side)

O R D E R

The petitioner is facing trial in C.C.No.154/2016 on the file of the Judicial Magistrate, Ambasamuthiram for offences under Sections 406, 420, 294(b) and 506(ii) IPC. It is seen that the petitioner filed Crl.O.P.(MD) No.19465/2016 challenging the prosecution in C.C.No.154/2016 and this Court, by order dated 07.10.2016, has granted interim stay of further proceedings in C.C.No.154/2016 and has also dispensed with the presence of the petitioner herein before the trial Court. While so, on 27.02.2017, the trial Court has passed the following order:

"27.02.2017

Accused person appearance dispensed in Crl.O.P.No.9786/16 dt 07.10.2016, interim stay granted for 4 week. No order copy for stay or extension of interim stay is not yet produced before the Court; already direct the accused to appear before the Court in order to furnish copies. But today also accused not appeared by 317 Cr.P.C. filed and dismissed. Hence issue NBW against accused c/o. 3.4.2017."

Therefore, the petitioner is before this Court with this petition for recalling the non bailable warrant.



2. Under normal circumstances, the non bailable warrant issued by the trial Court cannot be recalled in exercise of power under Section 482 Cr.P.C.. However, in this case, this Court called for the records in CrI.O.P.(MD) No.19465/2016 and found that interim stay and dispensed with has been granted by this Court on 07.10.2016. While so, the learned Judicial Magistrate, has misconstrued that the interim stay and dispensed with is only for a period of four weeks. But, whereas the records show otherwise. However, the petitioner is directed to surrender before the learned Judicial Magistrate, Ambasamuthiram within two weeks from the date of receipt of a copy of this order and on such surrender, non bailable warrant against him shall be recalled. Thereafter, the appearance of the petitioner before the trial Court is dispensed with till the disposal of CrI.O.P.(MD) No.19465/2016. In the event of CrI.O.P.(MD) No.19465/2016 being dismissed, the petitioner shall voluntarily start appearing before the trial Court without waiting for any further summons.

3. With the above directions, this criminal original petition is ordered. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Inspector of Police,
Kallidaikurichi Police Station,
Kallidaikurichi
Tirunelveli District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.Judicial Magistrate,
Ambasamuthiram,
Tirunelveli District

+1cc to M/S.S.Palanivelayutham, Advocate SR.No.17811

CrI.O.P.(MD)No.3418 of 2017
and CrI.M.P.No.2562/2017
23.03.2017