

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.06.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.15867 of 2018

A.Raajendhran

.. Petitioner

Vs

State rep. by

The Inspector of Police,

V-5, Thirumangalam Police Station,

Thirumangalam, Chennai.

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C.,
praying to recall the warrant issued against the petitioner on 31.08.2017 on
the date of surrender in connection with C.C.No.2510 of 2012 on the file of
the X Metropolitan Magistrate Court, Egmore, Allikulam.

For Petitioner : Mr.R.C.Paul Kanagaraj
for Mr.R.Arunkumar

For Respondent : Ms.P.Kritika Kamal, GA [Crl. Side]

ORDER

This petition has been filed to recall the warrant issued against
the petitioner on 31.08.2017 on the date of surrender in connection with
C.C.No.2510 of 2012 on the file of the X Metropolitan Magistrate Court,
Egmore, Allikulam.

2.Heard the learned counsel for the petitioner; the learned
Government Advocate [Crl. Side] appearing for the respondent and perused
the materials placed on record.

3.The petitioner is facing trial in C.C.No.2510 of 2012 before the X Metropolitan Magistrate, Egmore for offences under Sections 406, 420, 294[b] and 506[ii] IPC. Non Bailable Warrant was issued on 27.04.2017, since the petitioner did not appear before the trial Court, only filed an application under Section 317 of Cr.P.C. While so, the petitioner was arrested by the CBI on 19.01.2018 and was produced before the Special Court for CBI Cases [XII Additional District and Sessions Court], Chennai and was remanded to custody. He was released on bail in that case on 21.05.2018. It is the apprehension of the petitioner that if he appears before the trial Court in C.C.No.2510 of 2012 for recalling the Non Bailable Warrant under Section 70[ii] of Cr.P.C., there is every likelihood of the petitioner being remanded to custody. Therefore, the petitioner has filed the present petition under Section 482 of Cr.P.C. for recalling the warrant.

4.Mr.R.C.Paul Kanagaraj, learned counsel appearing for the petitioner places reliance on the order passed by this Court in Crl.O.P.No.13276 of 2017 dated 07.09.2017, in which, the learned Single Judge of this Court has held that for recalling Non Bailable Warrant, petition under Section 482 of Cr.P.C. is maintainable. However, from the earlier judgments of this Court, wherein, it has been held that petition under Section 482 of Cr.P.C. for recall of warrant is not maintainable.

5. In this case, the petitioner appears to have sufficient causes to satisfy the trial Court that his abscondence was on account of his arrest and detention by the CBI. The police should have executed the Non Bailable Warrant issued by the X Metropolitan Magistrate, Egmore, while the petitioner was in custody, after his arrest by the CBI, by effecting notional arrest in the prison and producing him under P.T. Warrant before the X Metropolitan Magistrate, Egmore.

6. In the recent Judgment, this Court has explained the contours of Section 446[A] of Cr.P.C. In view of the above, liberty is given to the petitioner to surrender before the X Metropolitan Magistrate, Egmore and file an affidavit explaining the cause for his abscondence along with a petition under Section 70[2] of Cr.P.C. and on such application being filed, the same may be considered in the light of the law laid down by this Court in *Pillappan @ Ravikumar Vs State rep. by Inspector of Police, West Police Station, Kumbakonam, Thanjavur District* reported in 2018[2] MLJ [CRL] 502.

With the above direction, this petition is closed.

13.06.2018

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Note : Issue order copy on 20.06.2018

P.N.PRAKASH, J.

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To

1.The X Metropolitan Magistrate,
Egmore, Allikulam.

2.The Inspector of Police,
V-5, Thirumangalam Police Station,
Thirumangalam, Chennai.

3.The Public Prosecutor,
High Court, Madras.

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