



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRL.O.P. (MD) No.1536 of 2018

WEB COPY

1.K.Abdul Hameed
2.Mohammed Sithick

.. Petitioners

Vs.

State through
The Inspector of Police,
Cumbum North Police Station,
Theni District,
Crime No.114 of 2012.

.. Respondent

Petition is filed under Section 482 of the Criminal Procedure Code to direct Judicial Magistrate, Uthamapalayam, Theni District to consider the recall warrant application of the petitioner on the same day of his surrender in P.C.R.No.60 of 2013 on its file.

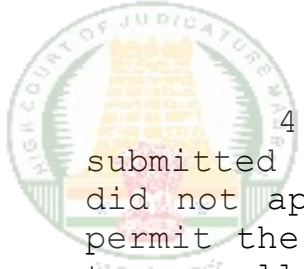
For Petitioners	: Mr.R.Maheswaran
For Respondent	: Mr.K.K.Ramakrishnan Additional Government Pleader

O R D E R

This Criminal Original Petition has been filed seeking direction to the Judicial Magistrate, Uthamapalayam, Theni District to consider the recall warrant application of the petitioners on the same day of their surrender in P.C.R.No.60 of 2013.

2.According to the petitioners, the respondent police has registered a case in Crime No.114 of 2012 for the offence punishable under Sections 294(b), 324, 341, 307 and 506(ii) IPC r/w Section 3 of TNPPDL Act, against the petitioners. After completion of investigation, the respondent has filed charge sheet and the same has been taken on file in PRC No.60 of 2013 by the Judicial Magistrate, Uthamapalayam, Theni District. In the said case, summons have not been served to the petitioners. However, they have filed a petition under Section 317 Cr.P.C., seeking one month time to appear before the Court, since the first petitioner is suffering from kidney problem and the second petitioner is a heart patient. But the learned Magistrate has dismissed the application and issued non bailable warrant against the petitioners on 24.01.2018 and in order to recall the warrant, this Criminal Original Petition has been filed.

3.The learned Additional Public Prosecutor appearing for the respondent submitted that pursuant to issuance of non bailable warrant, the respondent police has issued proclamation order on 11.04.2018.



4. The learned counsel appearing for the petitioners submitted that only due to the illness of the petitioners, they did not appear before the Court below. Therefore, this Court may permit the petitioners to file applications before the Court below to recall the warrant and the same may be directed to be considered.

5. In view of the submissions made by both parties, this Court is inclined to pass the following order.

(i) The petitioners shall surrender before the Judicial Magistrate, Uthamapalayam, Theni District within a period of two weeks from the date of receipt of a copy of this order and file applications to recall the warrant.

(ii) If any such application is filed by the petitioners, the same shall be considered by the Judicial Magistrate, Uthamapalayam, Theni District on the same day on merits and in accordance with law.

(iii) It is open to the respondent police to raise objections at the time of filing the aforesaid applications.

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

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Uthamapalayam,
Theni District.

2. The Inspector of Police,
Cumbum North Police Station,
Theni District.

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

+1cc to Mr. C. Susi Kumar, Advocate Sr.No.62376

MJ

VB/KKR/SAR3/15/05/2018/2P/5C

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