



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.1799 of 2018

Lazer

... Petitioner/Accused No.7

-Vs-

State rep. By
Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District,
Cr.No.39 of 2010.

... Respondent/Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District to consider the warrant recall application to recall the non bailable warrant pending against the petitioner on the same day in connection with C.C.No.100 of 2013, pending on the file of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District.

For Petitioners : Mr.S.Ramakrishnan
For Respondents : Mr.A.P.G.Ohm Chairma Prabhu
Govt. Advocate (Crl.Side)

O R D E R

This Criminal Original petition has been filed by the accused No.7 to direct the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District to consider the warrant recall application to be filed by the petitioner in C.C.No.100 of 2013 on the same day.

2.Heard both sides.

3.The learned counsel for the petitioner has submitted that the the respondent police has filed a charge sheet against the petitioner and some other accused under Sections 147, 148, 447, 427 and 506(ii) I.P.C. He further submitted that the petitioner is a mason and he went to Kerala for work, wherein he suffered with Paralysis. Therefore, he took Ayurvedic treatment and then, the case against the petitioner has been split up and numbered as C.C.No.100 of 2013 and the same is still pending. Sofar as the other accused persons are concerned, trial was conducted in C.C.No.80 of 2010 and the same was ended in acquittal and now, the petitioner is prepared to surrender before the learned Judicial Magistrate No.II, Kuzhithurai by filing a petition to recall the



warrant. He further submitted that on such surrender, the learned Judicial Magistrate may be directed to consider the petitioner's application and pass order on the same day.

4. The learned Government Advocate (Crl.Side) has submitted that since the petitioner has not appeared before the trial court, non-bailable warrant was issued on 03.09.2012 and even thereafter, the petitioner has not evinced any interest to appear before the court and hence, the learned Judicial Magistrate has split up the case against the petitioner and numbered as C.C.No.100 of 2013 and in so far as the other accused persons are concerned, the trial was conducted in C.C.No.80 of 2010 and finally, the said case was disposed of. He further submitted that since the petitioner has not appeared for a very long time, the aforesaid case is pending without any progress. Hence, he strongly opposed the petition.

5. Considering the aforesaid submissions, the petitioner is directed to surrender before the learned Judicial Magistrate No.II, Kuzhithurai within two weeks from the date of receipt of a copy of this order and file a petition under Section 70(2) Cr.P.C. The learned Judicial Magistrate No.II, Kuzhithurai has to consider the said application and pass order on merits either by allowing or dismissing the application on the same day, without adjourning the same.

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

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate NO.II,
Kuzhithurai, Kanyakumari District.

2. The Inspector of Police,
Nithiravilai Police Station,
Kanyakumari District

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

+1CC to Mr.S.Ramakrishnan, Advocate, SR.No. 50927

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