



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.1876 of 2018

Palaya

... Petitioner/Accused No.5

-Vs-

State rep. By
The Inspector of Police,
Usilampatti Police Station,
Madurai District,
Cr.No.89 of 2001.

... Respondent/Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned Judicial Magistrate Cum Munsif Court, Usilampatti to consider the warrant recall application to recall the warrant pending against the petitioner on the same day in C.C.No.42 of 2017 on the file of the learned Judicial Magistrate Cum Munsif Court, Usilampatti.

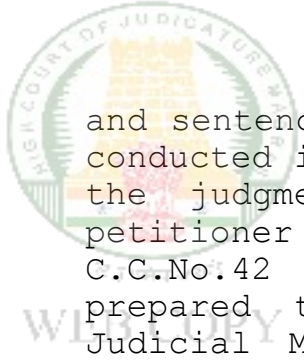
For Petitioner : Mr.M.Prabu
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Govt. Advocate (Crl.Side)

O R D E R

This Criminal Original petition has been filed by the accused No.5 to direct the learned Judicial Magistrate Cum District Munsif, Usilampatti to consider the warrant recall application to be filed by the petitioner in C.C.No.42 of 2017 and dispose of the said application on the same day.

2.Heard both sides.

3.The learned counsel for the petitioner has submitted that the respondent police has filed the charge sheet against totally 9 accused including the petitioner herein for the offence punishable under Section 379 I.P.C. He further submitted that the petitioner has been working at Mumbai for more than 20 years and he had no knowledge about the said case. He further submitted that in the F.I.R, the petitioner's name was not included and on the basis of the confession statement given by one of the co-accused, his name was included as an accused only at the time of filing charge-sheet. Since it was mentioned in the charge sheet that the petitioner was absconded, non-bailable warrant was issued and the case against him was split up and numbered as C.C.No.42 of 2017 and the same is still pending. ^{as the 7th accused is concerned, the case was conducted in C.C.No.343 of 2002 and the same was ended in conviction}



and sentence. Similarly, as against the 6th accused, the case was conducted in C.C.No.29 of 2008 and the same was disposed of through the judgment dated 21.08.2017. Now, as against the present petitioner and other accused persons, the case is pending in C.C.No.42 of 2017. He further submitted that the petitioner is prepared to surrender before the learned District Munsif cum Judicial Magistrate No.I, Usilampatti, 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 24.10.2001 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.42 of 2017 and in so far as the 7th and 6th accused persons are concerned, the case was conducted in C.C.Nos343 of 2002 and 29 of 2008 respectively and finally, the said cases were 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 District Munsif cum Judicial Magistrate No.I, Usilampatti, and file a petition under Section 70(2) Cr.P.C. The District Munsif cum Judicial Magistrate No.I, Usilampatti, has to consider the said application and dispose of the said application either by allowing or dismissing the same on merits on the same day, without adjourning the said application.

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 District Munsif cum Judicial Magistrate No.I, Usilampatti.
- 2.The Inspector of Police, Usilampatti Police Station,
Madurai District,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.M.Prabu, Advocate, SR.No. 51426

CRL.O.P.(MD)No.1876 of 2018

23.02.2018