



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

CRL.O.P.(MD)No.2101 of 2018

Murugan @ Pathan

... Petitioner/Accused

-Vs-

State rep. By
Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District,
Cr.No.633 of 2013.

... Respondent/Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned Judicial Magistrate No.I, Kuzhithurai to dispose the petition filed under Section 70(2) Cr.P.C on the same day to recall the non bailable warrant issued against the petitioner/accused in C.C.No.215 of 2014 on the file of the Judicial Magistrate No.I, Kuzhithurai.

For Petitioners	: Mr.N.Balakrishnan
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 to direct the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District to consider the warrant recall application filed by the petitioner in C.C.No.215 of 2014.

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 294(b), 447 and 506 (ii) I.P.C. He further submitted that due to his illness, he could not appear before the Court on 02.11.2017 and because of that, the learned Judicial Magistrate has issued a non-bailable warrant against the petitioner. He further submitted that the absence of the petitioner is neither wilful nor wanton. He further submitted that now, the petitioner is prepared to surrender before the learned Judicial Magistrate No.I, 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 02.11.2017 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.215 of 2014. 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, it is ordered that the petitioner has to surrender before the learned Judicial Magistrate No.I, Kuzhithurai and file a petition under Section 70(2) Cr.P.C. The learned Judicial Magistrate No.I, Kuzhithurai is directed to consider the said petition and pass order on merits either allowing or dismissing the petition on the same day, without adjourning the same.

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

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I, Kuzhithurai

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

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

+1CC to Mr.S.Siva Kumar, Advocate, SR.No. 50977

CRL.O.P.(MD)No.2101 of 2018

vs

AM/SV MMS/SAR 3/27.02.2018/2P/5C