



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

Cr1.O.P.(MD)No.5220 of 2018

D.Singaravel

...Petitioner / Accused No.1

-Vs-

The State represented by,
The Inspector of Police,
All Women Police Station,
Palani, Dindigul District.
(Crime No.10 of 2008)

...Respondent/Complainant

Prayer: Petition - filed under Section 482 of Code of Criminal Procedure to direct the learned Judicial Magistrate, Palani, to consider the warrant recall petition on the surrender of the petitioner / Accused No.1 on the same day in connection with C.C.No.325 of 2009 in connection with Crime No.10 of 2008 on the file of the respondent police, on merits on the same day.

For Petitioner

: Mr.J.Jeyakumaran

For Respondent

: Mr.K.K.Ramakrishnan

Additional Public Prosecutor

O R D E R

This petition has been filed direct the learned Judicial Magistrate, Palani, to consider the warrant recall petition on the surrender of the petitioner / Accused No.1 on the same day in connection with C.C.No.325 of 2009 in connection with Crime No.10 of 2008 on the file of the respondent police, on merits on the same day.

2. It is submitted by the learned counsel for the petitioner that due to the absence of the petitioner on 19.03.2018 because of his severe ill-health, for hearing of the case in C.C.No.275 of 2007, non bailable warrant was issued against the petitioner on the same day by the learned Judicial Magistrate, Palani. Hence, he filed this petition seeks to recall the non bailable warrant issued against him.

3. The learned Additional Public Prosecutor, on instructions, would submit that due to absence of the petitioner on 19.03.2018, non bailable warrant was issued against the petitioner and the petitioner shall approach the Court for



recalling the warrant instead of filing this petition before this Court. To support his contention, he relied on the judgment of the Hon'ble Supreme Court reported in 2018(1)MLJ(Crl)SC436 in the case of Madan Mohan vs. State of Rajasthan and Others, wherein in paragraph No.16, it has been held as follows:

"16. In our considered opinion, the High Court had no jurisdiction to direct the Sessions Judge to "allow" the application for grant of bail. Indeed, once such direction had been issued by the High Court then what was left for the Sessions Judge to decide except to follow the directions of the High Court and grant bail to respondent Nos.2 and 3. In other words, in compliance to the mandatory directions issued by the High Court, the Sessions Judge had no jurisdiction to reject the bail application but to allow it."

4. In the light of the above decision of the Hon'ble Supreme Court and also considering the fact that non bailable warrant was issued against the petitioner for his absence, there shall be a direction, directing the petitioner to surrender before the learned Judicial Magistrate, Palani, on the next hearing date and to file a petition for recalling the warrant and on such application, the learned Judicial Magistrate, Palani, is directed to consider the same on the same day and pass orders on merits and in accordance with law, after affording opportunity to the petitioner.

5. Accordingly, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(crl.side)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Palani.
2. The Inspector of Police,
All Women Police Station, Palani, Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+5. CC to Mr.J.Jeyakumaran, Advocate SR.No.59907

Order made in
Crl.O.P. (MD) No.5220 of 2018
Dated:05.04.2018