



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2018

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WEB COPY

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Cr1.O.P. (MD) No.5327 of 2018

Kannan @ Balamurugan

... Petitioner/Accused No.2

-Vs-

State rep by
The Inspector of Police,
Vaiyampatti Police Station,
Trichy District.
(Calender Case NO.180 of 2017)

... Respondent/Complainant

Prayer: Criminal Original petition - filed under Section 482 of Code of Criminal Procedure, to direct the learned Judicial Magistrate Court, Manapparai to consider the warrant recall application of the petitioner on the same day in C.C.No.180 of 2017 on the file of the learned Judicial Magistrate Court, Manapparai.

For Petitioner : Mr.AN.Ramanathan
For Respondents : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

ORDER

This petition has been filed to direct the learned Judicial Magistrate Court Manapparai, to consider the recall petition filed by the petitioner in C.C.No.19 of 2014 on the file of the learned Judicial Magistrate Court Manapparai and accept the same on the same day.

2. It is submitted by the learned counsel for the petitioner that due to the absence of the petitioner on 22.01.2015, for hearing of the case in C.C.No.19 of 2014, non bailable warrant was issued against the petitioner on the same day by the learned Judicial Magistrate Court Manapparai. 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 for one hearing, 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 (Cr1) 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 Court Manapparai within a period of two weeks from the date of receipt of a copy of this order to file a petition for recalling the warrant and on such application, the learned Judicial Magistrate Court Manapparai, is directed to consider the same on the same day and pass orders on merits and in accordance with law.

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

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Manapparai.
2. The Inspector of Police,
Vaiyampatti Police Station,
Trichy District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.AN.RAMANATHAN, ADVOCATE IN SR No. 60134

TA

TE/KKB/SAR-4 : 07/05/2018 : 2P/5C
<https://hcservices.ecourts.gov.in/hcservices/>

Order made in
Crl.O.P. (MD) No.5327 of 2018
Dated:06.04.2018