



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P.(MD)No.5553 of 2018

1.Thanulingam
2.Sarojini
3.Rajasekaran
4.Annanthjothi

... Petitioners/Accused Nos.2 to 5

-vs-

State represented by
The Inspector of Police,
All Women Police Station,
Uthamapalayam,
Theni District.
(Crime No.21/11)

... Respondent

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to recall the Non Bailable Warrant issued by the Judicial Magistrate, Uthamapalayam on 14.03.2018 in C.C.No.209 of 2012.

For Petitioners : M/s.P.Krishna Veni

For Respondent : Mr.M.Chandrasekar
Additional Public Prosecutor

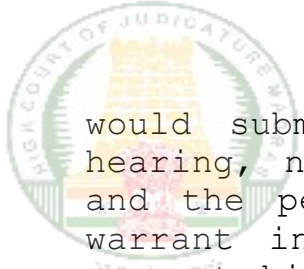
ORDER

This petition has been filed to recall the Non Bailable Warrant issued by the Judicial Magistrate, Uthamapalayam on 14.03.2018 in C.C.No.209 of 2012.

2. It is submitted by the learned counsel for the petitioners that the trial was commenced and came up for hearing on 05.03.2018 and thereafter, the case was posted on 14.03.2018 for examination of witnesses and on that day, due to the absence of the petitioners, non bailable warrant was issued against the petitioners on the same day by the learned Judicial Magistrate, Uthamapalayam. Hence, this petition has been filed to recall the non bailable warrant issued against them.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned Additional Public Prosecutor, on instructions,



would submit that due to absence of the petitioners for one hearing, non bailable warrant was issued against the petitioners and the petitioners 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 their absence, there shall be a direction, directing the petitioners to surrender before the learned Judicial Magistrate, Uthamapalayam, on 17.04.2018 and to file a petition for recalling the warrant and on such application, the learned Judicial Magistrate, Uthamapalayam, 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 (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Uthamapalayam.

2. The Inspector of Police,
All Women Police Station,
Uthamapalayam, Theni District.



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

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+1 cc TO M/S.A.Yusuf Gafoor , Advocate in SR No. 60564

Ls/am

AE/SV MMS/SAR1/13.04.2018/3P/5C

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