



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.04.2018

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD) Nos.5756 and 5757 of 2018

Thomas Tojo
S.Loyde Joyson

... Petitioner in Crl.O.P.5756/18
... Petitioner in Crl.O.P.5757/18

-Vs-

1.The state rep.by
The Inspector of Police,
All Women Police Station,
Nagercoil.
Crime No. 20 of 2012

.. 1st respondent in both O.Ps

2.E.S. Angel Mary

.. 2nd respondent in both O.Ps.

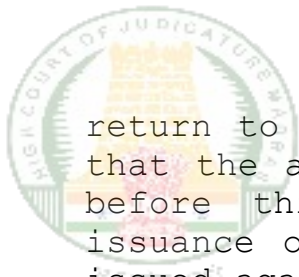
Common prayer: Criminal Original petitions are filed under Section 482 Cr.P.C., to direct the Judicial Magistrate No.II, Nagercoil, to consider the re-call warrant petition filed by the petitioners under Section 70(2) Cr.P.C., in C.C.No. 271 of 2013 on the same day of presentation without insisting for the appearance of the petitioners to recall the Non Bailable Warrant issued on 21.07.2017 and 27.11.2017 respectively.

For Petitioner : DR.R.Rajagopal in both O.Ps.
For Respondent No.I : Mr.Prabhu Ramachandran
Government Advocate (Crl. Side)
in both O.Ps.

O R D E R

The petitioners are facing trial in C.C.No. 271 of 2013, on the file of the learned Judicial Magistrate No.II, Nagercoil. Due to non appearance of the petitioners, Non Bailable warrant was issued against them on 21.07.2017 and 27.11.2017 respectively. Now, the petitioners wanted to recall the Non Bailable Warrant. This Court has already held more than one occasion that for recalling of Non Bailable Warrant, the appearance of the accused is not necessary.

2. The learned counsel appearing for the petitioners undertakes that if the warrant is recalled, the petitioners would



return to India and appear before the Court. It is also submitted that the application for quashing the proceedings is also pending before this Court. He further contended that because of the issuance of the Non Bailable Warrant, look out circular has been issued against them and it is preventing their return to India.

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3. Taking note of the submission made by the learned counsel appearing for the petitioners, the learned Judicial Magistrate No.II, Nagercoil is directed to entertain the application for recall of non bailable warrant to be filed by them, without insisting on personal appearance of the petitioners. Further, the learned Judicial Magistrate No.II, Nagercoil is directed to recall the Non Bailable Warrant issued against the petitioners, dated 21.07.2017 and 27.11.2017 respectively. It is open to the learned Trial Magistrate to stipulate appropriate condition, while recalling the warrant of the petitioners and the petitioners shall comply with the same.

4. In the result, these Criminal Original Petitions are allowed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II, Nagercoil,
2. The Inspector of Police,
All Women Police Station,
Nagercoil.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 2 CC TO Mr.R.RAJAGOPAL, ADVOCATE IN SR No. 61235

CP/TRP

TE/KKR/SAR-1 : 09/05/2018 : 2P/6C

Cr1.O.P. (MD) Nos.5756 and 5757 of 2018

13.04.2018