



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2018

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CRL.O.P. (MD)No.6023 of 2018

1.Vijay
2.Sivakumar

... Petitioners/Accused Nos.1 & 4

-vs-

State represented by
The Inspector of Police,
Thalaimuthunagar Police Station,
Tuticorin District.
(in Crime No.263/2010)

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned I Additional District and Sessions Judge, Tuticorin to consider the petitioner's petition to recall the Non Bailable Warrant issued in S.C.No.415 of 2015 dated 13.07.2016 on the same date.

For Petitioners : N.Anandakumar
For Respondent : Mr.K.K.Ramakrishnan
Additional Public Prosecutor

ORDER

This petition has been filed to recall the Non Bailable Warrant issued by the learned I Additional District and Sessions Judge, Tuticorin on 13.07.2016 in S.C.No.415 of 2015 on the same date.

2. It is submitted by the learned counsel for the petitioners that due to the absence of the petitioners, non bailable warrant was issued against the petitioners on the same day by the I Additional District and Sessions Judge, Tuticorin. Hence, this petition has been filed to recall the non bailable warrant issued against them.

3. The learned Additional Public Prosecutor, on instructions, would submit that due to absence of the petitioners, 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 petitioners for their absence, there shall be a direction, directing the petitioners to surrender before the learned I Additional District and Sessions Judge, Tuticorin, and to file a petition for recalling the warrant and on such application, the I Additional District and Sessions Judge, Tuticorin, 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 (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The I Additional District and Sessions Judge,
Tuticorin.
2. The Inspector of Police,
Thalaimuthunagar Police Station,
Tuticorin District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.V.MALAIYENDRAN, ADVOCATE IN SR No. 61597

CM

TE/BSK/SAR-3 : 03/05/2018 : 2P/5C

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

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