

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 02.01.2019
Pronouncing orders on : 08.01.2019

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

Crl.OP Nos.20383 & 20384 of 2018

Deepak Kumar

..Petitioner in both Crl.OPs

Versus

State of Tamil Nadu,
rep. by
The Inspector of Police,
Jolarpet Railway Police Station,
(Crime No.67/2015),
Vellore District.

..1st respondent in
Crl.OP No.20383 of 2018

State of Tamil Nadu,
rep. by
The Inspector of Police,
Jolarpet Railway Police Station,
(Crime No.75/2015),
Vellore District.

..1st respondent in
Crl.OP No.20384 of 2018

The Superintendent,
Central Prison,
Vellore

..2nd Respondent in both Crl.OPs

Prayer in Crl.OP No. 20383 of 2018: Criminal Original Petition filed under Section 482 of Cr. PC to set aside the order passed by the Judicial Magistrate Court No.III, Thirupathur, in Crl MP No.1143 of 2018 dated 22.05.2018 pending in CC.No.21/2017 and Direct the respondents not to act on the Impugned Order.

Prayer in Crl.OP No. 20384 of 2018: Criminal Original Petition filed under Section 482 of Cr. PC to set aside the order passed by the Judicial Magistrate Court No.III, Thirupathur, in Crl MP No.1142 of 2018 dated 22.05.2018 pending in P.R.C.No.1/2016 and Direct the respondents not to act on the Impugned Order.

For Petitioner : Mr.D.Mario Johnson
in both Crl. Ops

For Respondents: Mr.Mohammed Riyaz
in both Crl. OPs Additional Public Prosecutor

ORDER

These Criminal Original petitions have been filed challenging the order passed by the Court below dismissing the petitions filed by the petitioner to convert the Regular warrant into P.T warrant.

2. The respondent police registered two FIR's against the petitioner in Crime No.67 of 2015 and Crime No.75 of 2015. In Crime No.67 of 2015, the FIR was registered for an offence under Section 141 of the Indian Railways Act and Sections 392, 120(b), 34 and 414 IPC. In Crime No.75 of 2012, the FIR was registered for an offence under Section 141 of the Indian Railways Act and Sections 395, 397 and 506(ii) IPC. In both these cases, arrest was effected against the petitioner and the petitioner filed CMP No.3376 of 2015 and CMP No.3378 of 2015 seeking for bail. The petitioner was granted bail by an order dated 14.10.2015.

3. Since the petitioner was under arrest in a different criminal case, he was not in a position to come out on bail and from 15.06.2016 onwards, the petitioner continuous to be in judicial custody.

4. In the meantime, the petitioner was arrested by the Haryana Police in Crime No.36 of 2014 and the petitioner was produced before the Court under P.T.Warrant and thereafter, the petitioner was taken to Haryana and was kept in judicial custody. The proceedings at Haryana was over and the petitioner was again brought back to Tamil Nadu and was confined at Vellore Central Prison. It is the case of the petitioner that the Court below has suo-motu converted the P.T Warrant into a Regular warrant and therefore, it indirectly amounts to canceling the bail and depriving the liberty of the petitioner.

5. The petitioner therefore filed the above petitions seeking to convert the Regular Warrant into P.T Warrant.

6. These petitions were dismissed by the Court below on the ground that since the petitioner has not appeared during the trial proceedings in the case, Non Bailable Warrant (NBW) was issued against the petitioner, since there was absolutely no representation on the side of the petitioner. This NBW is pending from 02.06.2016 onwards. The main case was split up as against this petitioner along with other accused persons and is

pending for more than 2 1/2 years. Since, the NBW was pending without execution, the investigating agency filed a requisition for issuance of P.T Warrant in order to produce the petitioner before the Court, since the petitioner at that point of time was under custody in JarJar Central Prison, Haryana.

7. The petitioner was remanded to judicial custody by the order passed by the Court below on 24.03.2018. Even at that point of time, the petitioner did not state anything about the continuous custody in other criminal cases. The Court below has also stated that issuance of remand warrant to detain the accused under judicial custody and issuance of P.T Warrant to produce the accused before the Court are judicial orders and they cannot be reviewed or modified by the Court in view of the bar under Section 362 of Cr.PC. Therefore, the Court below refused to entertain the petition filed by the petitioner.

8. The learned Additional Public Prosecutor representing the respondent police would submit that the trial has already commenced and it will be over within a short time. If the petitioner is let out on bail at this stage, he will abscond and the petitioner is a native of Uttar Pradesh. Therefore, the learned Additional Public Prosecutor submitted that there is no ground to interfere with the orders passed by the Court below.

9. This Court does not find any illegality or infirmity in the orders passed by the Court below. The Court below has given sufficient reasons for declining the relief sought for by the petitioner. That apart, the trial has commenced and it is almost in the verge of completion. Therefore, at this point of time, the relief sought for by the petitioner cannot be granted.

10. In the result, the orders passed by the Court below is hereby confirmed and accordingly, these criminal original petitions are dismissed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate III,
Thirupathur.

2.The Inspector of Police,
Jolarpet Railway Police Station,
(Cr.No.67/2015), Vellore District.

3.The Sub Inspector of Police,
Jolarpet Railway Police Station,
(Cr.No.75/2015), Vellore District.

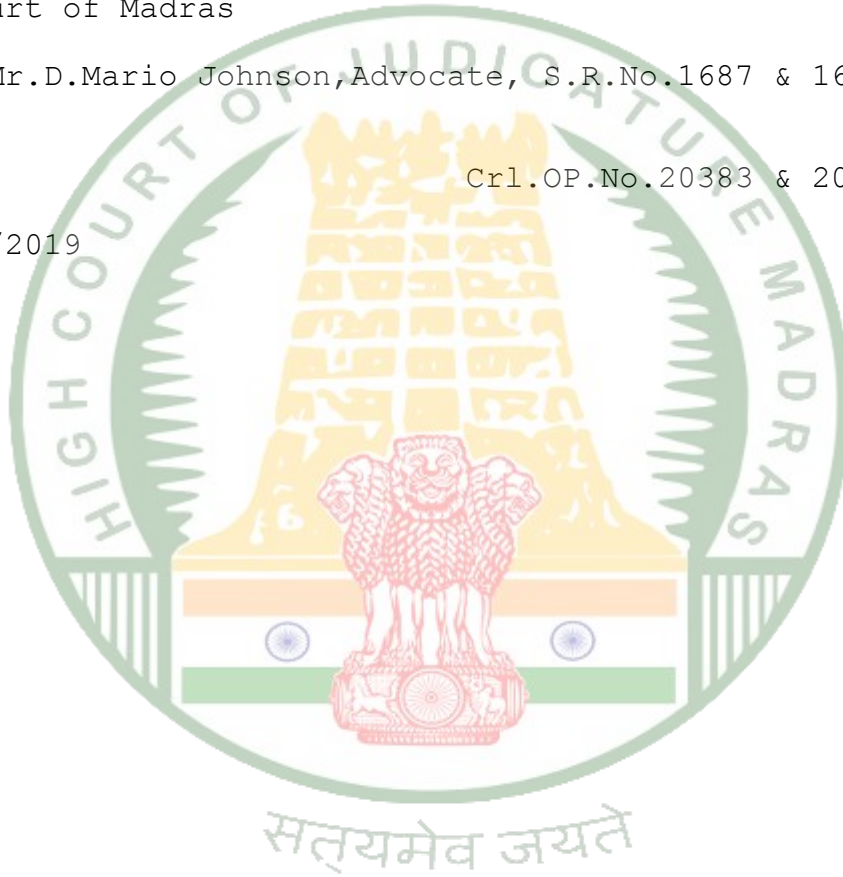
4.The Superintendent,
Central Prison, Vellore.

5.The Public Prosecutor,
High Court of Madras

+2ccs to Mr.D.Mario Johnson,Advocate, S.R.No.1687 & 1688

Cr1.OP.No.20383 & 20384 of 2018

rrs 06/02/2019



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