

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CrI.O.P.No.25894 of 2019

Kombaiyan

...Petitioner

Vs

The Inspector of Police,
Keel Kuppam Police Station,
Villupuram District.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the Learned Judicial Magistrate-II, Kallakurichi, to recall the (NBW) Non Bailable Warrant issued against the petitioner dated 07.12.2018 in C.C.No.51 of 2017 on the file of the learned Judicial Magistrate-II, Kallakurichi, in Crime No.161 of 2015 on the file of the respondent police.

For Petitioner : Mr.V.Gunasekar

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to direct the learned JJudicial Magistrate-II, Kallakurichi, to recall the Non-Bailable Warrant issued against the petitioner/accused in C.C.No.51 of 2017.

2. This Court, by an earlier order dated 07.09.2017 passed in CrI.O.P.Nos.13276 of 2017, etc., had considered the scope of recalling a Non-Bailable Warrant issued by the Trial Courts. The relevant portion of the said order reads as follows:-

20.Thus, under Section 82 of Cr.P.C., there can be no impediment on the part of the trial Court to pronounce him as a proclaimed offender, instead of keeping the matter pending indefinitely for the purpose of having the warrant executed. Hence, the existence of the fourth category of cases cannot be a ground to preclude the High Court to do justice in the first three categories particularly, when they constitute a major portion of the pending cases in

the State of Tamil Nadu, in which, Non Bailable Warrants are pending execution.

21.To sum up the findings rendered by me, it is reiterated that the issuance of Bailable Warrant or Non Bailable Warrant should be exercised with extreme caution and in the rarest of cases, bearing in mind that the pendency of Non Bailable Warrant is one of the major factors for the long pendency of cases before the trial Court. The trial Court shall also scrupulously follow the guidelines imposed in Inder Mohan Gowsami's case (supra) as well as the observations made in the present case while issuing Non Bailable Warrants or recalling the Non Bailable Warrants.

3. By following the ratio laid down in the aforesaid order, this Court is of the view that the petitioner's request for recalling the Non-Bailable Warrant can also be considered.

4. Accordingly, the Non-Bailable Warrant dated 07.12.2018 issued against the petitioner in C.C.No.51 of 2017 on the file of the learned Learned Judicial Magistrate-II, Kallakurichi, is hereby recalled.

5. It is made clear that the petitioner shall henceforth co-operate by regularly attending the proceedings before the concerned Court.

6. Accordingly, the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

jas/hvk

To

1. The Judicial Magistrate II,
Kallakurichi.

2. The Chief Judicial Magistrate,
Villupuram.

3. The Inspector of Police,
Keel Kuppam Police Station,
Villupuram District.

4. The Additional Public Prosecutor,
High Court of Madras.

+lcc to Mr.V.Gunasekar, Advocate SR.No.82890

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PP(CO)
GMY(21/10/2019)



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