

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CrI.O.P.No.25971 of 2019

S.Shankar

...Petitioner

Vs

K.V.Govindaraju

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the XVII Metropolitan Magistrate, Saidapet, Chennai to accept the surrender of the petitioner and consider his petition to recall the Non Bailable Warrant dated 17.09.2019 in C.C.No.1488 of 2016.

For Petitioner : Mr.A.V.Arun

O R D E R

This Criminal Original Petition is filed to direct the XVII Metropolitan Magistrate, Saidapet, Chennai to accept the surrender of the petitioner and consider his petition to recall the Non Bailable Warrant dated 17.09.2019 in C.C.No.1488 of 2016.

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 17.09.2019 issued against the petitioner in C.C.No.1488 of 2016 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai 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(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The XVII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.A.V.Arun, Advocate Sr.83704

Cr1.O.P.No.25971 of 2019

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srg 10/10/2019