

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Crl.O.P.No.28048 of 2019

and

Crl.M.P.No.14966 of 2019

P.Yoganandhan ...Petitioner/Petitioner/1st Respondent

Vs

Kanimozhi ...Respondent/Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order dated 27.09.2019 in C.M.P.No.2898 of 2019 in D.V.O.P.No.71 of 2018 on the file of the Additional Mahila Court, Magisterial Level, Salem, thereby issuing non bailable warrant in so far as against the petitioner/1st respondent.

For Petitioner : Mr.N.Anand

ORDER

This Criminal Original Petition is filed to set aside the order passed by the learned Judicial Magistrate, Additional Mahila Court, Salem, in C.M.P.No.2898 of 2019 in D.V.O.P.No.71 of 2018 dated 27.09.2019.

2. This Court, by an earlier order dated 07.09.2017 passed in Crl.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. In the light of the above observations, the order dated 27.09.2019 passed by the learned Judicial Magistrate, Additional Mahila Court, Salem, in C.M.P.No.2898 of 2019 in D.V.O.P.No.71 of 2018 is set aside and consequently, the Non-Bailable Warrant issued against the petitioner is 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. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Insp.cell)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

jas/hvk

To

1. The Additional Mahila Court,
Magisterial Level,
Salem.

2. The Public Prosecutor,
High Court of Madras.

WEB COPY

+1cc to Mr.N.Anand, Advocate SR.No.93990

Crl.O.P.No.28048 of 2019
and
Crl.M.P.No.14966 of 2019

PVS (CO)
GMY (14/11/2019)



WEB COPY