



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.32542 of 2019

S.Jayaraman
Petitioner

...

Vs.

1.J.Bhuvaneswari
2.J.Meenatchi (Minor)
3.J.Vijayakumar (Minor)
(Minor respondents are represented
by her mother and natural guardian
J.Bhuvaneswari herein)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to recall the Non Bailable Warrant in M.P.No.1158 of 2018 in M.C.No.204 of 2017 issued by the learned III Additional Family Judge, Chennai, dated 21.10.2019 issued against the petitioner.

For Petitioner : Mr.P.K.Ganesh
For Respondents : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This petition has been filed seeking a direction, to recall the Non Bailable Warrant in M.P.No.1158 of 2018 in M.C.No.204 of 2017 issued by the learned III Additional Family Judge, Chennai, dated 21.10.2019 issued against the petitioner.

2.The learned counsel for the petitioner has submitted that the learned Trial Court Judge has issued Non-Bailable Warrant in M.P.No.1158 of 2018 in MC.No.204 of 2017 without issuing notice to the petitioner herein. But, the xerox copy of the docket sheet in M.P.No.1158 of 2018 in M.C.No.204 of 2017 shows that notice was ordered and that the petitioner herein also appeared in person on 12.02.2019, 13.03.2019, 13.04.2019. However, on 05.08.2019, the petitioner appeared before the trial court and he was directed to pay the maintenance amount and the case was adjourned to 09.09.2019. On 09.09.2019, the Trial Court has passed an order directing the petitioner to pay not less than 50% of the arrears of the maintenance amount on or before 21.10.2019. On 21.10.2019 both the petitioner and respondent were present in the Court, but, the petitioner did not make any payment towards maintenance,



and hence the trial Court has passed an order to issue Non-Bailable Warrant.

3. On 21.10.2019, since the petitioner herein was very well present, the trial court could have passed detention order, but it has ordered to issue Non-bailable Warrant.

4.A perusal of the above, it would reveal that the petitioner was well aware of the consequence that would arise in the event of failure of conditional order passed by the Trial Court since on 09.09.2019, the Trial Court has passed conditional order directing the petitioner to pay 50% of the arrears of maintenance, which was admittedly not complied with by the petitioner. Therefore, this Court does not find any irregularity in issuing Non-Bailable Warrant against the petitioner by the Trial Court. Hence, this Court does not find any merit in this petition.

5.In the result, this petition is dismissed. However, considering the submission made by the learned counsel for the petitioner, an opportunity is given to the petitioner to surrender before the Trial Court and file a petition to recall the Non Bailable Warrant and also to make payment as directed by the Trial Court within a week from the date of receipt of copy of this order. If any such petition is filed, the trial court is directed to consider the same and dispose of on the same day.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gbi/ebsi
To

1.The III Additional Family Judge,
Chennai

2.The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.32542 of 2019

A.SK(05/12/2019)