

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.22950 of 2018
and CRL.M.P.No.12830 of 2018

1.R.Selvam
2.S.Karuppan
3.A.Rajivghandi
4.C.Duraisamy
5.A.Shankar
6.A.Shakthivel
7.M.Pazhani

... Petitioners/A3, A7, A8,
A9, A10, A11 & A12

Vs.

1. The State Rep. by
The Sub-Inspector of Police,
Chinnasalem Police Station,
Kallakurichi Taluk,
Villupuram District.

... 1st Respondent/Complainant

2. Mr.Kaliyan

... 2nd Respondent/Defacto
complainant

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C, to set aside the docket order dated 28.03.2018 in C.C.No.57/2018 passed by the Learned Judicial Magistrate No.II, Kallakurichi.

For Petitioners : Mr.S.Kanmani

For Respondents : Mr.M.Mohamed Riyaz for R1

Additional Public Prosecutor

Mr.V.Gunasekar & Mr.J.Pradeep for R2

O R D E R

The Criminal Original Petition has been filed to set aside the docket order dated 28.03.2017, in C.C.No.57 of 2018, passed by the learned Judicial Magistrate No.II, Kallakurichi.

2.It is seen from the records that there are totally 13 accused in Crime No. 197 of 2015, in which the petitioners are arrayed as A3, A7, A8, A9, A10, A11 & A12. The learned Magistrate while taking cognizance as against the accused persons, had straightaway issued the Non Bailable Warrant without issuing summons to the petitioners and issued summons to the other accused.

3.It is also seen that the first respondent had filed a final report in Crime No.197 of 2015 for the offences under Sections 147, 294(b), 325, 506(ii), IPC r/w 4 of the Women Harassment Act only as against A1, A2, A4, A6, and A13, removing the other accused persons in the charge sheet, who are the petitioners herein.

4.It is submitted by the learned counsel for the petitioners that though the first respondent deleted the names of the petitioners from charge sheet, after perusal of the statements and other list of witnesses, the learned Magistrate ought not to have taken cognizance as against all the accused and issued Non Bailable Warrant as against the petitioners.

5.Heard both sides and perused the materials available on record.

6.Considering the above facts and circumstances, this Court is not inclined to set aside the docket order dated 28.03.2018, passed by the learned Magistrate No. II, Kallakurichi and the only error committed by the trial Court is that instead of issuing summons to the petitioners, straightaway issued Non Bailable Warrant to the petitioners. Therefore, the petitioners are directed to surrender before the learned Judicial Magistrate No.II, Kallakurichi on the next hearing date and file a petition to recall Non Bailable Warrant under Section 70(3) Cr.P.C. On receipt of the same, learned Judicial Magistrate No.II, Kallakurichi is directed to consider the same positively and recall the Non Bailable Warrants on the same day and proceed with the trial.

7.With the above observations and directions, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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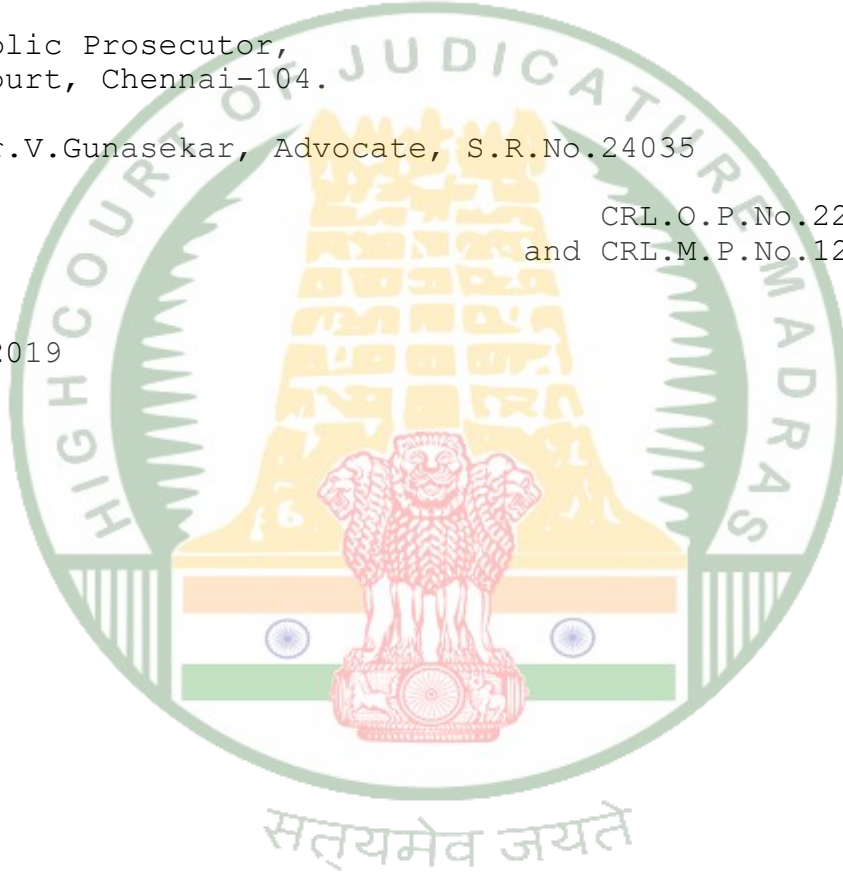
To

1. The Judicial Magistrate No.II,
Kallakurichi.
2. Do Thro The Chief Judicial Magistrate,
Villupuram District.
3. The Sub-Inspector of Police,
Chinnasalem Police Station,
Kallakurichi Taluk,
Villupuram District.
4. The Public Prosecutor,
High Court, Chennai-104.

+1cc to Mr.V.Gunasekar, Advocate, S.R.No.24035

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and CRL.M.P.No.12830 of 2018

SKV(CO)
CS/24/04/2019



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