



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.10.2019**

CORAM:

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

Crl.R.C. (MD)No.640 of 2019

and

Crl.M.P(MD)No.7766 of 2019

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Lakshmi : Petitioner/Petitioner/2nd Accused

Vs.

The State rep. by
The Sub Inspector of Police,
Kannivadi Police Station,
Kannivadi (Crime No.322/2016)
Dindigul District.

: Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Criminal Procedure Code praying to call for the records of the order dated 01.08.2019 passed in Crl.M.P.No.7015 of 2019 in C.C.No.87 of 2018 by the Judicial Magistrate Court, No.II, Dindigul and set aside the same.

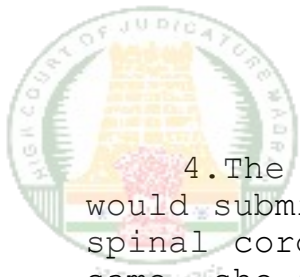
For Petitioner	: Mr.B.Rajesh Saravanan
For Respondent	: Ms.Anantha Devi
	Government Advocate [Criminal Side]

O R D E R

The present criminal revision petition is filed against the order dated 01.08.2019 passed in Crl.M.P.No.7015 of 2019 in C.C.No.87 of 2018 by the learned Judicial Magistrate No.II, Dindigul dismissing the recall petition filed by the petitioner herein to recall the non-bailable warrant issued against her.

2.The non-bailable warrant was issued by the trial Court on the ground that the petitioner herein was absent for many hearings and in order to secure the presence of the petitioner/accused, the trial Court had issued non-bailable warrant on 14.03.2019.

3.In response to the same, the petitioner herein has filed recall petition on 01.08.2019. After considering the application, the trial Court dismissed the recall petition on the ground that it has been filed after a period of four months and also the medical certificate produced by petitioner that she was suffering from lower back pain and neck pain was doubtful, against which, the present criminal revision petition has been filed.



4.The learned counsel appearing for the revision petitioner would submit that the petitioner being a lady, in fact she suffered spinal cord ailment, lower back pain and neck pain. In view of the same, she took treatment in a private hospital for a period of four months and to establish the factum, a medical certificate was also produced, but unfortunately, not appreciating the certificate produced by the petitioner, the trial Court mechanically dismissed the recall petition.

5.In response to the notice, Ms.Anantha Devi, learned Government Advocate (crl.side) entered appearance on behalf of the respondent and a counter affidavit has also been filed.

6.In the counter affidavit, it is stated that the medical certificate produced by the petitioner was doubtful and even assuming the ailment was a matter of fact, it was only relating to neck pain and lower back pain, therefore, there cannot be any justifiable reason for remaining absent for more than four months. According to the learned Government Advocate (crl. side) appearing for the prosecution, the trial Court has rightly dismissed the recall petition since the reasons stated in the recall petition was not convincing.

7.I have considered the submission made on behalf of the petitioner and also on behalf of the respondent.

8.Although this Court is in agreement with the order passed by the trial Court, however, taking into consideration the fact that the petitioner being a lady and she was suffering from ailment such as back pain, neck pain etc., this Court of the considered view that the petitioner herein may be given one more chance to participate in the trial by recalling the non-bailable warrant issued against her by the trial Court on 14.03.2019. Although the trial Court has concluded that the medical certificate produced by the petitioner was doubtful, nevertheless, the trial Court did not elaborate reasons for doubting the certificate produced by the petitioner herein and no specific reason has been given by the trial Court in this regard.

9. In view of the same, this Court giving the benefit of doubt to the petitioner/accused, recalls the non-bailable warrant issued by the trial Court dated 14.03.2019. The petitioner is directed to give an undertaking before the learned Judicial Magistrate No.II, Dindigul that she will extend her fullest cooperation to ensure that C.C.No.87 of 2018 is disposed of without any further delay. In case any non-cooperation on the side of the petitioner is noticed, the trial Court is at liberty to proceed against the petitioner as it deems fit in accordance with law.



10. In the result, the Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Judicial Magistrate No.II,
Dindigul.
2. The Sub Inspector of Police,
Kannivadi Police Station,
Kannivadi (Crime No.322/2016)
Dindigul District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.B.RAJESH SARAVANAN, Advocate (SR-92236[F] dated
16/10/2019)

ORDER MADE IN
Cr1.R.C. (MD) No. 640 of 2019
and
Cr1.M.P (MD) No. 7766 of 2019
15.10.2019

VB(04.11.2019) 3P 5C