



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.09.2019
CORAM
THE HONOURABLE MR.JUSTICE **N.ANAND VENKATESH**

Crl.O.P.(MD)No.17831 of 2017
and Crl.M.P.(MD)No.11637 of 2017

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Ramesh

... Petitioner/
Defacto Complainant

Vs.

1.The Inspector of Police,
Pattukottai Police Station,
Thanjavur District.
(Crime No.125/2014)

... Resondent/ Complainant

2. Neduncheliyan,
3. Anandhi,

... Respondents/ Accused Nos.1 & 2

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the order of issuing witness warrant dated 27.11.2017 in C.C.No.283 of 2017 against the Petitioner by the Judicial Magistrate, Pattukottai and set aside the same and pass appropriate orders and thus render justice.

For Petitioner	: Mr.R.Gandhi
For R1	: Mr.K.Dinesh Babu Additional Public Prosecutor
For R2 and R3	: No appearance

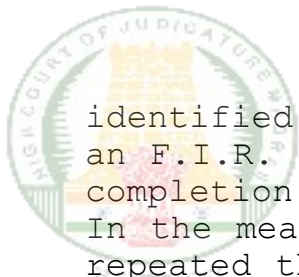
ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below issuing witness warrant to the petitioner.

2.The petitioner is the defacto complainant, who had set the law in motion and based on his complaint, the respondent police had registered an F.I.R. in Crime No.119 of 2012. After the completion of the investigation, a final report was laid before the Judicial Magistrate, Pattukottai and the same was taken on file in C.C.No.283 of 2017. In the list of witnesses, the petitioner being the defacto complainant has been shown as P.W.1. Since the petitioner was not present before the Court below for giving evidence, a witness warrant came to be issued against him. Aggrieved by the same, the present petition filed before this Court.

3.The learned counsel for the petitioner submitted that after the filing of the present case, the petitioner was attacked by un-

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identified persons and the petitioner sustained serious injuries and an F.I.R. came to be registered in Crime No.1 of 2014 and after the completion of the investigation, a final report has also been filed. In the meantime, A1 was absconding and the petitioner was receiving repeated threats and was not able to effectively participate in the case.

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4.The learned counsel further submitted that the petitioner filed a transfer petition, seeking for transfer from the file of the Judicial Magistrate, Pattukottai, to any other Magistrate Court. Initially, that petition was entertained and subsequently, the same has been dismissed. The learned counsel submitted that the petitioner, who is the defacto complainant, is willing to co-operate with the trial provided that he is not threatened and a fair trial is ensured before the Court below.

5.Heard the learned Additional Public Prosecutor appearing for the respondent police.

6.Taking into consideration of facts and circumstances of the case and also the fact that the transfer petition filed by the petitioner had already been dismissed by the competent Court, the Court below has to proceed further with the trial against the accused persons. However, it will not be fair to continue the warrant issued against the petitioner to hang as a Damocles sword over the head of the petitioner. After all the petitioner is the defacto complainant and no one other than the petitioner will have interest in prosecuting this case. The only grievance is that there is threat from the accused person.

7.The warrant issued by the Court below dated 21.11.2017 is hereby recalled. The petitioner shall be present before the Court below for giving evidence as and when he receives summon from the Court. It is made clear that the first respondent police shall provide sufficient protection to the petitioner at the time of his appearance before the Court below.

8.This Criminal Original Petition is disposed of with a direction to the Judicial Magistrate, Pattukottai, to dispose of the proceedings in C.C.No.283 of 2017, within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar



To

1.The Judicial Magistrate,
Pattukottai.

2.The Inspector of Police,
Pattukottai Police Station,
Thanjavur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.GANDHI, Advocate (SR-87802[F] dated 19/09/2019

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18.09.2019

LS

MS/03.10.2019/3P.5C