

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.13976 of 2020

Anandhan

... Petitioner/Accused-1

Vs.

State Rep by its:

The Inspector of Police,
Thambaram Police Station,
Thambaram,
Chennai

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to set aside the adjudication order dated 28.07.2020 in SC.No.252 of 2005 on the file of the learned Additional District and Sessions Judge at Chengalpet.

For Petitioner : Mr.P.Kumaresan

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

O R D E R

This petition has been filed to set aside the adjudication order passed 28.07.2020 in SC.No.252 of 2005 on the file of the learned Additional District and Sessions Court, Chengalpet.

2. The learned counsel for the petitioner would submit that the petitioner is an accused in SC.No.252 of 2005 charged for offences under Sections 364, 302, 201, 392 r/w 397 and 34 of IPC. The petitioner was arrested and subsequently released on bail. The petitioner hails from other district and there was no progress in the trial for the reason that the other accused persons were absconding. The petitioner appeared through his counsel. On 22.11.2013, the petitioner could not appear before the trial court and as such non bailable warrant was issued as against the petitioner and thereafter it was recalled. In the year 2019, again the respondent registered case as against the petitioner in Cr.No.82 of 2019 and he was arrested and remanded to judicial custody, in which on the basis of the co-accused confession statement, the petitioner surrendered and was remanded to judicial custody on 15.06.2020. Therefore, the petitioner could not appear before the trial court in SC.No.252 of 2005 pending on the

Chengalpet. When the petitioner was arrested in Cr.No.82 of 2019, the petitioner was produced on PT warrant before the trial court in SC.No.252 of 2005. In fact, this Court directed the trial court to issue PT warrant for production of the petitioner in SC.No.252 of 2005. After direction issued by this Court, the trial court issued PT warrant and on PT warrant, he was produced in SC.No.252 of 2005 on 28.07.2020. Before the trial court, the respondent filed petition for remand of the petitioner and the same was considered by the trial court and remanded the petitioner to judicial custody. He further submitted that when the petitioner was produced on PT warrant, the respondent have no locus to arrest the petitioner and he cannot be remanded on non bailable warrant. In support of his contention, he also relied upon the judgment in the case of Palanivel Vs. The State reported in 2019(2) LW Cr1. 174.

3. Per contra, the learned Additional Public Prosecutor submitted that the petitioner is an accused in SC.No.252 of 2005. Though he was released on bail, from the year 2005 onwards, he failed to appear before the trial court and as such on 22.11.2013, the petitioner was absent before the trial court and as such non bailable warrant was issued as against the petitioner and it is still pending. While being so, the petitioner involved in another case and he himself surrendered and he was remanded to judicial custody in Cr.No.82 of 2019 on the file of the Judicial Magistrate, Vazhapadi, Salem. Thereafter, the petitioner filed direction petition before this Court for issuance of PT warrant by the trial court in SC.No.252 of 2005. On the direction issued by this Court, the trial court issued PT warrant in SC.No.252 of 2005 for production of the petitioner. On PT warrant, the petitioner was produced before the trial court and the trial court remanded him to judicial custody since already NBW is pending as against the petitioner for very long time. Therefore, there is absolutely no infirmity or illegality in the order passed by the court below and as such he prayed for dismissal of the petition.

4. Heard Mr.P.Kumaresan, the learned counsel for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent.

5. The petitioner is an accused in Cr.No.423 of 2003 on the file of the respondent registered for the offence under Sections 364, 302, 201, 392 r/w 397 and 34 of IPC. There are totally four accused, in which the petitioner is arrayed as A1. After completion of investigation, the respondent filed final report and the same has been taken cognizance in SC.No.252 of 2005 on the file of the learned Additional District and Sessions Judge, Chengalpet. When the trial is in progress, the petitioner failed to appear before the trial court on 22.11.2013 and as such the trial court issued NBW as against the petitioner and it is pending. While being so, the

petitioner involved in another case in Cr.No.82 of 2019 and on the basis of the co-accused confession statement, the petitioner himself surrendered and his surrender was accepted and remanded him to judicial custody by the learned Judicial Magistrate, Vazhapadi, Salem in pursuant to Cr.No.82 of 2019 on 15.06.2020. The petitioner approached this Court in Crl.OP.No.9146 of 2020 for direction directing the trial court to issue PT warrant for his appearance before the trial court. By an order dated 22.06.2020 as directed by this Court, the trial court issued PT warrant in SC.No.252 of 2005 for production of the petitioner for trial. Accordingly, the petitioner was produced before the trial court on 28.07.2020. At the same time, the respondent requested to remand the petitioner on the NBW issued as against the petitioner and it was pending for long time. The trial court accepted the request made by the respondent herein and remanded the petitioner for the reason that as against the petitioner, NBW is pending for long time. In this regard, the learned counsel for the petitioner relied upon the judgment in the case of Palanivel Vs. The State reported in 2019(2) LW Crl. 174, wherein this Court has held as follows:

28. It is therefore clear that a PT warrant can never be converted into a regular warrant, in a case where the accused person is already on bail and thereby it does not authorize the Court to remand the accused on a strength of a regular warrant. The first issue raised before this Court is answered accordingly.

29. In this case, admittedly the bail was granted by this Court. However, the Court below which is subordinate to this Court, has proceeded to cancel the bail by virtue of the impugned order. Whether such a procedure adopted by the Court below is in accordance with law. This is the second issue that arises for consideration.

This court held that the purpose of a PT warrant is very limited to the extent of directing the production of a person who is confined or detained in prison by a lawful order. Further held that the scope of PT warrant cannot be enlarged by assuming the same to be an authorization for detaining the prisoner beyond the period of detention. The issuance of PT warrant cannot be equated or construed to be an order of remand. This Court held in the above case on different footings. In the above case, the person who has been granted bail, cannot be detained on PT warrant without cancelling the bail granted to him.

6. In the case on hand, the petitioner's surrender was accepted and remanded to judicial custody in Cr.No.82 of 2019. Since NBW is pending in SC.No.252 of 2005 on the file of the Additional District and Sessions Judge, Chengalpet, as directed by this Court, the trial court issued PT warrant and on PT warrant, the petitioner was produced before the trial

court in SC.No.252 of 2005. The NBW is pending as against the petitioner from 22.11.2013, when the petitioner was produced even on PT warrant, he can be remanded on the pendency of non bailable warrant as against him. Therefore, the above judgment cited by the learned counsel for the petitioner is not applicable to the case on hand. Therefore, the trial court has rightly remanded the petitioner to the judicial custody on the non bailable warrant pending as against him. Therefore, this Court does not find any infirmity or illegality in the order passed by the court below and this criminal original petition is liable to be dismissed.

7. Accordingly, this criminal original petition is dismissed. However, the petitioner is at liberty to file petition for bail in the manner known to law.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The learned Additional District and Sessions Judge at Chengalpet.
2. The Inspector of Police,
Thambaram Police Station,
Thambaram,
Chennai
3. The Public Prosecutor,
High Court of Madras

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SDR 17/12/2020

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