

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.11.2020
PRONOUNCED ON : 20.11.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.18012 of 2020

J.Mugundan

.. Petitioner/Sole Accused

Vs.

The State rep. by
The Inspector of Police
Vigilance and Anti-Corruption
Villupuram
(Crime No.11 of 2017)

.. Respondent/Complainant

Criminal Original Petition filed under Section 397 & 401 of Criminal Procedure Code, to set-aside the order dated 14.10.2020 passed by the learned Judge, Special Court for Prevention of Corruption Act Cases, Villupuram in C.M.P.No.62 of 2020 in Special case No.5 of 2020 and direct him to recall the Non-Bailable Warrant issued against him

For Petitioner : Mr.V.Krishnamoorthy
For Respondent : Mr.L.Charles Premkumar
Govt. Advocate (Crl. Side)

O R D E R

This matter is taken up for hearing via video conferencing.

2. The petitioner is facing a prosecution in Special Case No.5 of 2020 before the Special Judge for Prevention of Corruption Act Cases, Villupuram for the offences under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. The petitioner did not appear before the trial Court on 08.10.2020 and his counsel filed an application under Section 317 Cr.P.C., which was allowed by the trial Court, with a direction to the petitioner to appear on 14.10.2020 for questioning him on the charges. On 14.10.2020, the petitioner did not appear, but, filed an application under Section 317 Cr.P.C. in a printed format, in a cavalier fashion saying, "The petitioner/accused is not able to attend this Hon'ble Court today as he/she is suffering from serious illness." The trial Court dismissed the petition and issued Non-Bailable Warrant to

secure the petitioner, aggrieved by which, the petitioner has filed the present petition invoking Section 482 Cr.P.C.

3. Heard Mr.V.Krishnamoorthy, learned counsel for the petitioner, who submitted that the petitioner had filed a discharge application in Crl.M.P.No.48 of 2020 under Section 239 Cr.P.C. in the trial Court and the same was dismissed on 08.10.2020, but, the petitioner prayed for time to approach the High Court, which was not granted by the trial Court and instead, warrant has been issued on 14.10.2020, peremptorily deserves to be recalled.

4. Per contra, Mr.L.Charles Premkumar, learned Government Advocate (Crl. Side) submitted that there is a direction by this Court in W.P.No.1254 of 2020 to conduct the trial in this case on day-to-day basis and complete the same in a time bound manner and therefore, when the petitioner failed to appear on 14.10.2020 even though he was directed to appear, the trial Court had no other option, but, to issue the Non-Bailable Warrant.

5. In the opinion of this Court, issuance of Non-Bailable Warrant is not a final order, but, it is only an interlocutory order and it is always open to the petitioner to surrender before the trial Court and pray for its recall. It is to be noted that the reason given in the petition filed under Section 317 Cr.P.C. before the trial Court extracted above is different from the one that is proffered now. Such dilatory tactics to prolong a corruption trial, especially when there is a direction by this Court to complete the trial within six months, has to be deprecated. In this case, when the trial Judge had specifically directed the petitioner to appear on 14.10.2020, his conduct in filing a petition under Section 317 Cr.P.C. in a printed format simply saying that he is unwell shows that he has least respect for the Court. Information provided by the trial Court discloses that notice was issued to the sureties and they have also paid the bond amount.

In the result, this Criminal Original Petition is dismissed and the petitioner is directed to surrender before the trial Court forthwith and on such surrender, it is open to the trial Court to consider his bail application on the same day.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To

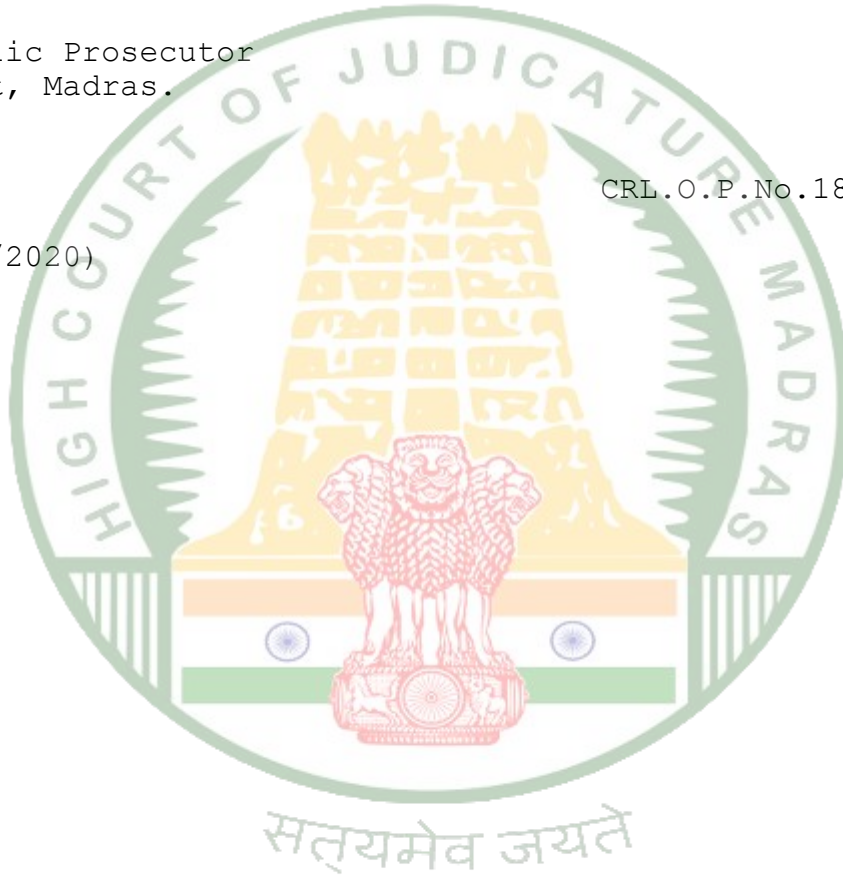
1.The Special Judge
Special Court for Prevention of Corruption Act Cases
Villupuram

2.The Inspector of Police
Vigilance and Anti-Corruption
Villupuram

3.The Public Prosecutor
High Court, Madras.

CRL.O.P.No.18012 of 2020

BS (CO)
RMP (14/12/2020)



WEB COPY