

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Cr1.O.P.No.19934 of 2020

A. Ponraj,
S/o, Arumugam,
GRP Street, Periya Colony,
Villuppuram.

...Petitioner

-Vs-

State By:
Deputy Superintendent of Police,
Villuppuram Sub Division,
Villuppuram.
(Villuppuram Taluk P.S.Cr.No.571/2015)

...Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to direct the Special Sessions Court for SC/ST (POA) Act, Villuppuram to recall the Non Bailable Warrant issued on 19.10.2019 against the petitioner in S.C.No.76 of 2017 on the file of the Special Sessions Court for SC/ST(POA) Act, Villuppuram in Crime No.571 of 2015 on the file of the respondent police station.

For Petitioner : Mr.P.Pugalenthir

For Respondent : Ms.M.Prabhavathi

Additional Public Prosecutor

O R D E R

Seeking for a direction to the Special Sessions Court for SC/ST (POA) Act, Villuppuram, to recall the non bailable warrant issued on 19.10.2019 against the petitioner in S.C.No.76 of 2017 in Crime No.571 of 2015 on the file of the respondent police, the Criminal Original Petition has come to be laid by the petitioner/A2.

2. Along with other accused, the petitioner/A2 is facing trial in S.C.No.76 of 2017 (Crime No.571 of 2015) on the file of the Special Sessions Court for SC/ST (POA) Act, Villuppuram. According to the petitioner, after the case had been taken on file by the Sessions Court, NBW had come to be issued against him. It is the contention of the petitioner that NBW had been issued by the Court without the issuance of any summons. Hence, according to the petitioner, seeking for the recall of NBW, he

had been necessitated to lay the Criminal Original Petition for appropriate relief.

3. Even according to the petitioner, NBW had come to be issued by the Court below against him due to his non-appearance. Such being the position, when as per section 70(2) Cr.P.C, every warrant issued by the court shall remain in force until it is cancelled by the court which issued it or until it is executed, in such view of the matter, if according to the petitioner, the court had erroneously issued the NBW against him without issuing summons, it is open to the petitioner to recall the NBW by preferring appropriate petition before the court below and seek suitable orders. On the other hand, the contention of the petitioner is that the court below had erroneously issued the NBW against him as such cannot be readily accepted. If the petitioner has any reliable material to substantiate the abovesaid ground, nothing prevented the petitioner from recalling the NBW by filing appropriate petition before the court below as per law. In such view of the matter, when it is only the Court which had issued the NBW has the authority to recall the same, I do not find any valid reason to give any specific direction to the court below to recall the NBW issued against the petitioner as claimed in the Criminal Original Petition by the petitioner.

4. In conclusion, the Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Deputy Superintendent of Police,
Villupuram Sub Division, Villupuram.

2. The Public Prosecutor,
High Court, Madras.

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