



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.15253 of 2021

1. Arunkumar
2. Ramachandran @ Mohankumar
3. Nabi @ Mohammed Nabi
- 4.Yushp @ Mohamed Yushp

... Petitioners/ Accused 1, 9,10,11

Versus

State rep. by

- 1.The Deputy Superintendent of Police,
Rasipuram Sub Division,
Namakkal District.

- 2.The Inspector of Police
Rasipuram Police Station,
Namakkal District.

(Crime No.490 of 2021)

... Respondents/Complainant

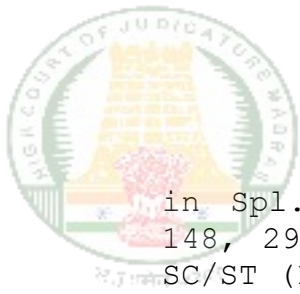
PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Sessions Court for SC/ST Act, Namakkal to recall the Non Bailable Warrant issued against the petitioners in Spl.S.C.No.8 of 2021 dated 17.08.2021 on the file of the Sessions Court for SC/ST Act, Namakkal.

For Petitioners : Mr.W.Camyles Gandhi

For Respondents : Mr.A.Damodaran
Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the Sessions Court for SC/ST Act, Namakkal to recall the Non Bailable Warrant issued against the petitioners in Spl.S.C.No.8 of 2021 dated 17.08.2021 on the file of the Sessions Court for SC/ST Act, Namakkal.



2. The petitioners, who are arrayed as A1, A9, A10 & A11 in Spl.S.C.No.8 of 2021, for the offence under Sections 147, 148, 294(b), 323, 324 & 307 of IPC, r/w 3(i) (s), 3(2), (v) of SC/ST (POA) Amendment Act, 2015, have filed this petition.

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3. The contention of the petitioners is that the defacto complainant's brother earlier had a dispute with the petitioners and there was a fighting between them. Thereafter, during Temple festival, the petitioners is said to have quarreled with the defacto complainant and attacked him and also abused him by using Caste name.

4. Earlier, the first petitioner/A1 was assaulted by the de-facto complainant and three others, for which, a case has been registered in Crime No.491 of 2021 for the offence under Sections 147, 148, 341, 294(b), 324, 307 & 506(ii) of IPC. As a counter blast, the above case has been lodged against the petitioners. Since it is a case in counter, the respondent police ought to have investigated both Crime Nos.490 & 491 of 2021 in together by following the Police Standing Orders 588-A. In this case, no such procedure has been followed. On the contrary, the charge sheet was filed against the petitioners on 14.07.2021. On 17.08.2021, though summons of service was pending, the case was called and the Trial Court straight away issued Non-Bailable Warrant and adjourned the case to 02.09.2021. The petitioners sought a prayer to consider the recall of Non-Bailable Warrant/bail on the same day. He further submitted that earlier, the petitioners had moved Crl.O.P.No.8578 of 2021 seeking prayer to consider the bail application and this Court by the order dated 05.05.2021 directed the Trial Court to consider the bail application on the same day. Thereafter, due to second Covid-19 pandemic, the Court had been closed and hence, within the time frame, the said order could not be complied with. In the meanwhile, now the charge sheet has been filed.

5. The learned Government Advocate (CrI.Side) has submitted that on the completion of the investigation, charge sheet was filed. Since the accused neither obtained bail nor appeared before the Trial Court, the Non-Bailable Warrant was issued against the petitioners.

6. On a perusal of the adjudication order of the Trial Court, it is seen that the charge sheet was filed on 14.07.2021 and thereafter, the case was adjourned to 17.08.2021 and also recorded that the service of summons is pending. However, on that day, Non-Bailable Warrant was issued and the case was



posted on 02.09.2021. Though no where it is stated that the summons were refused or evaded, Non-Bailable Warrant came to be issued against the petitioners.

7. Considering the submission and perused the materials, it is seen that the petitioner and the defacto complainant have filed a case in counter in Crime Nos.490 & 491 of 2021 against each other. Further no reason has been given by the Lower Court for issuance of Non-Bailable Warrant on 17.08.2021.

8. In view of the same, the petitioners shall appear before the trial Court on 13.09.2021 and on that day itself, the Trial Court is directed to consider the Non-Bailable Warrant /bail application of the petitioners.

9. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dna

To

1.The Deputy Superintendent of Police,
Rasipuram Sub Division,
Namakkal District.

2.The Inspector of Police
Rasipuram Police Station,
Namakkal District.

3.The Public Prosecutor
High Court, Madras.

4. The Sessions court for SC/ST ACT, Namakkal.

+1CC to Mr.W.Camyles Gandhi, Advocate, SR.No.44703 (08/09/2021)

CRL.O.P.No.15253 of 2021

SJ (CO)
B.VC (07/09/2021)