



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.18103 OF 2021

A.Liyagath Hussain,
S/o.Anwar Hussain

... Petitioner/7th Accused

Versus

The State Rep. by
The Inspector of Police,
Kannathur Police Station,
Chengalpet District.

... Respondent/Complainant

PRAYER:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Additional District and Sessions Court, Chengalpet to recall the non-bailable warrant issued in S.C.No.168 of 2010 on 06.11.2019 against the petitioner.

For Petitioner : Mr.K.Gowthaman

For Respondent : Mr.R.Vinothraja,
Government Advocate (Crl.side)

ORDER

(This case has been heard through video conference)

The petitioner/A7 in S.C.No.168 of 2010, who is facing trial before the learned Additional District and Sessions Court, Chengalpet was absent on 06.11.2019 and non-bailable warrant was issued. To recall the non-bailable warrant on the same day, the petitioner filed above petition.

2. The contention of the petitioner is that he is a coolie and to make earning and livelihood for himself and his family, he used to attend work at various places. He engaged his counsel to appear on his behalf before the lower court, who was regularly following the case, however, on 06.11.2019, his



counsel could not appear within time, he filed a petition under Sec.317 of CrI.P.C. Hence, the non-bailable warrant was issued. This fact was not known to the petitioner for quite some time and recently, when the respondent police came to search the petitioner, thereafter only, he came to know about the issuance of non-bailable warrant. The specific overtact attributed against the petitioner is that he used wooden log in assaulting the accused. The case is proclaimed that the petitioner arrayed as 7th accused, and when the petitioner and his friend gone to have party, at that time, the dispute arose and the occurrence taken place. He would further submit that the petitioner has no bad antecedents and no other case is pending against the petitioner either before registration of this case or after the registration of this case.

3. The learned Government Advocate (CrI.Side) appearing for the respondent Police would submit that the petitioner was absent before the trial court on 06.11.2019. Hence, non-bailable warrant issued, and thereafter, the petitioner was absconded. Totally 8 accused in this case and one or other accused alternatively absenting themselves, thereby protracting trial. Pending trial, A4 and A5 died. The petitioner got no other case against him other than this case. The petitioner is a coolie, which is not disputed.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.Side) appearing on behalf of the respondent police.

5. On considering the submissions made by the petitioner and the learned Government Advocate, this Court finds that the petitioner is only coolie and he was not involved in any other case. Further, the petitioner was very much available in the said address and only after the respondent police was in search of the petitioner, he came to know about the pendency of non-bailable warrant against him. From the copy of adjudication, it could be seen that the case is yet to commence trial and case is adjourned recording service pending. In view of the same, this Court directs the trial court to consider the recall petition of the petitioner sympathetically preferably on the same day.

6. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rpp



To

1. The Inspector of Police,
Kannathur Police Station,
Chengalpet District.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Gowthaman, Advocate, S.R.No.52976

CRL.O.P.NO.18103 OF 2021

SVI (CO)
PBS/28/10/2021