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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR,J

Cr1.O.P.No.17194 of 2021

and

Cr1.M.P.No.9427 of 2021

1.M.Ramesh Chandh Chordia

2.M.Agarchandh Chordia

...Petitioners

-Vs-

1. State rep by,
The Station House Officer,
Virudhachalam Police Station,
Cuddalore District.
(Crime.No.125 of 2011).

2.Arun @ Arunkumar

..Respondents

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records and set aside the witness warrant issued against the petitioners in C.C.No.81 of 2014 dated 31.08.2021 pending on the file of the Judicial Magistrate No.1, Virudhachalam.

For Petitioners : Mr.K.Gandhi Kumar

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioners, who have received summons in C.C. No.81 of 2014 had filed this petition, seeking to call for records and to set aside the witness warrant issued against them on 31.08.2021.

2.The contention of the petitioners is that the petitioners are not aware of what reason, the summons have been sent and in view of the same, despite receipt of the summons, they have not appeared before the lower court.



3. The learned Additional Public Prosecutor appearing for the 1st respondent would submit that in this case, summons have been issued by the lower court to the petitioners who are witnesses. The petitioners admit that they have received summons from the lower court, have no reason disobeyed the summons of the lower court.

4. I have considered the submissions made on either side and perused the materials available on records.

5. In view of the same, the Trial Court finding that the petitioners having received summons, disobeyed the lower court order, had issued bailable warrant. The appearance of the petitioners is very much necessary in the case. The lower court finding that appearance of the petitioner is necessary, thereafter, only had issued summons. The petitioners cannot question the authority of the court in issuance of the summon. The counsel for the petitioners undertake to appear before the lower court on 04.10.2021. Their only apprehension is that they would be detained. This court finds that the issuance of bailable warrant by the lower court for appearance before the lower court is proper., it cannot be set aside on the contention of the petitioners. On the submissions of the petitioners, they would appear before the lower court on 04.10.2021. This Court directs the lower court to recall the bailable warrant issued to the petitioners on their appearance before the lower court on 04.10.2021 and thereafter to examine them as witnesses in C.C.No.81 of 2014 without any delay.

6. With the above direction, this Criminal Original petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

rpp/nr

To

1. State rep. by,
The Station House Officer,
Virudhachalam Police Station,
Cuddalore District.



2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Gandhi Kumar, Advocate SR.No.49312

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BP (CO)
GMY (24/09/2021)