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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.19934 of 2021

S.Nallathambi

... Petitioner

Vs.

1.The Deputy Superintendent of Police,  
Kangayam Sub Division,  
Thiruppur District.

2.The Inspector of Police,  
All Women Police Station,  
Kangayam,  
Thiurppur District.  
(Crime No.3 of 2016)

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to recall the Non-Bailable Warrant dated 05.08.2019 pending against the petitioner in Spl.S.C.No.6 of 2019 on the file of the learned Principal District and Sessions Judge, Tiruppur in Crime No.3 of 2016 on the file of the second respondent.

For Petitioner : Mr.R.Perumalswamy

For Respondents : Mr.R.Vinothraja  
Government Advocate [Crl. Side]

Defacto complainant :  
Victim : Appeared in person

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O R D E R

This Criminal Original Petition is filed to recall the Non-Bailable Warrant dated 05.08.2019 pending against the petitioner in Spl.S.C.No.6 of 2019 on the file of the learned Principal District and Sessions Judge, Tiruppur in Crime No.3 of 2016 on the file of the second respondent.

2.The petitioner is the third accused in Spl.S.C.No.6 of 2019, who is charge sheeted for the offence under Section 376 (2) (k)(ii), 354(A), 341 IPC & Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 3(1) (w) (i), 3(2) (va) SC/ST (POA) Amendment Act 2014, has filed this petition seeking to recall the Non-Bailable Warrant issued against the

petitioner.



3.The contention of the petitioner is that the petitioner herein is only charged for offence for publishing an article in "Kaalai Kathir" Daily, due to which the victim was defamed and undergone sufferings, mental agony and thereby causing harassment to her. The petitioner is A3. A1 and A2 were working along with the victim girl as Home Guard. At that time, there was some relationship and misunderstanding between A1 and A2 with the victim. The petitioner is projected as a friend of A2. At the instance of A2, the petitioner is said to have reported and published an article depicting the victim girl in dark shades to the entire community at large, as though the moral character of the victim is questionable.

4.Further submitted that in this case, the petitioner was never arrested, called for any enquiry. The petitioner was not aware about the pendency of the case. Now the petitioner came to know that, absconding charge sheet, filed against the petitioner and other accused i.e. A2, based on which the respondent police attempting to arrest the petitioner. Hence he filed the above petition.

5.The victim in this case appeared before this Court and she narrated the entire happenings. She submitted that her complaint is true and what had happened to her had been narrated in the complaint. A1 and A2 working as Home Guards along with the victim girl. At that time, she was put to untold misery, sufferings, humiliation and forcible physical exploitation. Taking advantage of her social status, since she belongs to a voice less society and no body would come in support of the victim, to question the accused. She fairly submits that she does not know A3, till A3 published an article in the Kaalai Kathir Daily depicting the victim in bad light. After the publication her parents, relatives, known persons and everyone were not willing to even look at the victim and speak to her. Even the parents of the victim were not willing to take her. Having no other option she took asylum at "Mariyalaya Home", Tiruppur. Thereafter finding that she was physiologically down needed a change of place and environment she was sent to YWCA, Chennai, she stayed for quite some time. Latter her marriage took place on 08.06.2017 and her husband is not aware of the entire facts of the complaint. Out of the wedlock, a female baby was born on 26.01.2019. The victim moved from Kangeyam and now residing with her husband in Tiruppur.

6.The accused in this case had informed through others to the victim's husband about the case and it's facts, which now created a storm in her family life, her husband is doubting her in all aspect and she is able to cling on to the matrimonial life for the future of her two years female child. Further she fears that if she deposes the truth the same would be used, given wide publicity and her matrimonial life would become a disaster, and her child future would become a



questionable one. The humiliation and sufferings she had faced and the un-certainty of her future is making her life miserable. She wanted the accused to be punished, at the same time her marital life and her daughter's future not to be disturbed, confidentiality to be maintained to safe guard her future. When questioned she informed that no compensation was paid and the respondent police so far not informed the same. She is unable to know her rights provided under the Act.

7.The learned Additional Public Prosecutor submitted that the victim is in a pitiable position. He would instruct the Investigating Officer to take all steps with the guidance of the Superintendent of Police, Tiruppur. The District Collector, Tirupput to see to that the victim gets her compensation without any further delay. The identity of the victim shall be safe guarded and the victim allowed to depose freely her sufferings.

8.Considering the rival submissions and on perusal of the materials, this Court finds that the petition filed by the petitioner cannot be entertained and hence deserves to be dismissed. This Court feels it deem fit to issues the following directions on hearing the victim's pain and sufferings.

"i.The District Collector, Tiruppur and the Superintendent of Police, Tiruppur are directed to provide all necessary help, guidance to the victim, which can guarantee and safe guard the future of the victim and her child. The representation of the victim is furnished along with this order copy, enabling the District Collector to take speedy measures to provide early and timely compensation.

ii.The Superintendent of Police, Tiruppur is directed to ensure that the victim is not subjected to any humiliation, torture in any manner. In this regard, any complaint received necessary action to be taken to proceed against the offenders under Section 195-A and to take steps to cancel the bail.

iii.The learned Principal District and Sessions Judge, Tiruppur is directed to take all necessary steps to secure the absconding accused, needed to direct the Superintendent of Police, Tiruppur to ensure, execution of Non-Bailable Warrant, and to proceed with the trial without further delay.

iv.The trial court as well as the respondents are reminded of their obligations under the Act and Rules.

v.The District Legal Services Authority, Tiruppur is directed to provide all



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necessary help and guidance to the victim to conduct the case and to inform the victim about her rights in getting compensation as per Rule 12(4) of the Act. Further to nominate a Panel Advocate to assist the victim during trial.

9.The primary concern of the victim is that the secrecy, confidentiality and identity of the victim is to be maintained, so that she do not come in public glare, making her life miserable.

10.With the above observations, this Criminal Original Petition stands dismissed. The copy of the representation dated 08.11.2021, given by the victim girl to be forwarded to the District Collector, Tiruppur along with the copy of this order.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector,Tiruppur.  
(Representation dated 08.11.2021  
forwarded along with the order)

2.The Principal District and Sessions Judge,Tiruppur.

3.The Superintendent of Pollice,Tiruppur.

4.The Deputy Superintendent of Police,  
Kangeyam Sub Division,  
Thiruppur District.

5.The District Legal Services Authority,  
Tiruppur.

6.The Inspector of Police,  
All Women Police Station,  
Kangeyam,  
Thiurppur District.

7.The Public Prosecutor,  
High Court, Madras.

Cr1.O.P.No.19934 of 2021

SS co  
A.SK(08.11.2021)