



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21868 of 2021

R.K.Ayyappan

...Petitioner

Versus

State rep by
The Inspector of Police,
Thiruthuraipoondi Police Station,
Thiruvarur District

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to recall the Non bailable warrant issued on 08.11.2021 against the petitioner/accused in S.C.No.52 of 2016 by the Learned Chief Judicial Magistrate at Thiruvarur.

For Petitioner : Mr.S.Senthil

For Respondents : Mr.R.Vinothraja

Government Advocate(crl.side)

O R D E R

This petition has been filed by the petitioner/accused to recall the Non bailable warrant issued on 08.11.2021 against the petitioner/accused in S.C.No.52 of 2016 by the Learned Chief Judicial Magistrate at Thiruvarur.

2. The contention of the learned counsel appearing for the petitioners is that the respondent police without conducting proper investigation has filed Charge Sheet against the petitioner for offence punishable under Sections 294 (b), 324 and 307 of I.P.C. He further submitted that the petitioner is a practicing Advocate in the Court of Thiruthuraipoondi , which is one of the reason for the respondents to file final report including offence punishable under Section 307 I.P.C. He further submitted that the petitioner is regularly appearing before the Trial Court, but due to illness the petitioner was unable to appear on 08.11.2021, for which NBW has been issued



against the petitioner and the petition filed under Section 317 Cr.P.C. through his counsel was also dismissed.

3. The learned Government Advocate (Crl.side) submitted that in this case offence said to have been taken place on 18.01.2016 . The petitioner had attacked his blood brother and on the complaint given by his brother/de-facto complainant, the case came to be registered and on conclusion of investigation charge sheet came to be filed and taken on file in S.C.No.52 of 2016. He further submitted that the petitioner for one reason or other had been delaying the trial for the past five years and he was deliberately absent and not appeared before the trial Court on 08.11.2021, on which date P.W.1 was present and therefore the trial Court dismissed the petition filed under Section 317 Cr.P.C. and issued Non Bailable Warrant against the petitioner. He further submitted that only 8 witness in this case and all the witnesses can be produced within stipulated period.

4. The learned counsel appearing for the petitioners submitted that he is willing to proceed with the cross examine the witnesses then and there without seeking any adjournment. He further submitted that a counter case has been registered based on the complaint given by the petitioner against the brother, which after completion of investigation is pending before Sub Court, Tiruvarur and the same can be tried along with this case and he is taking steps to get it transferred to the file of learned Chief Judicial Magistrate, Thiruvarur.

5. In view of the submissions made by learned counsel appearing on either side, the petitioners shall file a petition under Section 70 (2) of Cr.P.C. to recall Non Bailable Warrant and on such application being filed, the trial court shall consider the petition on the same day.

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

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar



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To

1. The Chief Judicial Magistrate
Thiruvarur
2. The Subordinate Judge
Thiruvarur
3. The Inspector of Police,
Thiruthuraipoondi Police Station,
Thiruvarur District.
4. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S.Senthil, advocate sr 62393.

Cr1.O.P.No.21868 of 2021

PL(CO)
SP(16/12/2021)