



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NOS.23081, 23082, 23084 & 23085 OF 2021

Mani Prabhu

...Petitioner in all Crl.O.Ps

Vs

The State Rep.by
The Inspector of Police,
District Crime Branch Police Station,
Villupuram, Villupuram District.
(Crime No.03 of 1995)

...Respondent in all Crl.O.Ps

COMMON PRAYER : Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the case in Crl.M.P.Nos.1935, 1933, 1936 & 1934 of 2021 in the pending C.C.No.173, 171, 174 & 172 of 2002 on the file of learned Judicial Magistrate No.1, Villupuram, Villupuram District and set aside the orders dated 18.08.2021.

In all Crl.O.Ps

For Petitioner	:	Mr.G.Saravanan
For Respondent	:	Mr.E. Raj Thilak Additional Public Prosecutor.

ORDER

These Criminal Original Petitions have been filed by the petitioner to call for the records relating to the cases in Crl.M.P.Nos.1935, 1933, 1936 & 1934 of 2021, in the pending C.C.Nos.173, 171, 174 & 172 of 2002, on the file of Judicial Magistrate No.1, Villupuram, Villupuram District and set aside the orders dated 18.08.2021.

2. The petitioner was erstwhile working with the defacto complainant. At that time, he said to have misappropriated some amount in the year 1995. Thereafter, the complaint was lodged and the case in crime No.03 of 1995 had been registered under Section 408 IPC. The petitioner was arrested and let out on bail. Thereafter, he was directed to appear on summons for investigation. In this case, it took some time and charge sheet was filed in four cases in C.C.Nos.171 to 174 of 2002, from



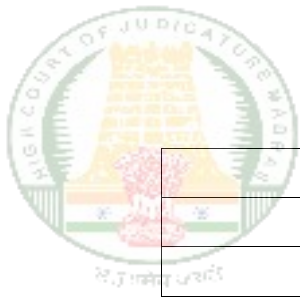
single FIR splitting each case separately. He further submitted that the petitioner is a small contractor and used to go to various places wherever he gets work. He engaged an Advocate to appear on behalf of him before the Villupuram District Court to defend his case and he was constantly in touch with him and each time when he called his Advocate, he was informed that there was no progress in the case and the case has been taken care of. Believing that, the petitioner was continuing with his work. Now the petitioner came to know that a Non-Bailable Warrant had been issued against him and the Police are in search of him to execute the same. He had filed a petition before the lower Court and the lower Court insisted the petitioner to be present and he apprehends that he would be remanded in this case. Further, he quoted the decisions of the Apex Court and this Court's order, wherein, the presence of the petitioner/accused is not necessary while filing a recall petition under Section 70 (2) Cr.P.C.

3. The Additional Public Prosecutor submits that in the dismissal order of the lower Court, the petitioner's dilatory tactics have been clearly stated. Non-Bailable Warrants were issued to the petitioner in the year 2004, 2006, 2009, and 2010 and subsequently recalled and at last the Non-Bailable warrant was issued in the year 2014. From then on, the petitioner has been absconding himself. The petitioner is very well aware of the case and had shown no interest and respect to the Court. He further submitted that the respondent police made a request to the trial Court for issuance of fresh Non-Bailable Warrant, since, the earlier warrant got destroyed due to rain. If the Non-Bailable Warrant is allowed to be recalled, the petitioner would abscond himself and the progress of the trial would get obstructed and the calendar case has been pending from 2002, nearly 19 years and the learned Additional Public Prosecutor objected the same.

4. Learned counsel for the petitioner, at this juncture, submits that the petitioner is charged for the offence under Section 408 IPC, which is a compoundable offence, which had taken place in the year 1995. To show his bonafides, he is willing to remit the misappropriated amount in the respective C.C. Numbers.

5. The Additional Public Prosecutor, on verification with the respondent police, submits that petitioner had misappropriated the amount as follows:

S.No.	C.C.Nos.	Amount in (Rs.)
1	171	25,270/-
2	172	11,585/-



S.No.	C.C.Nos.	Amount in (Rs.)
3	173	11,850/-
4	174	9,936/-

It is one thing to say that Non-Bailable Warrant is pending for a long time and it is another thing to say that the respondent police is unable to execute the same. Now the petitioner has come before the Court to recall the same and participate in the trial and complete the proceedings in the CC cases.

6. In view of the same, this Court recalls the Non-Bailable Warrant, issued against the petitioner in all the four cases on condition that the petitioner to deposit the amount misappropriated in all the four C.C.Numbers and to file an affidavit before the lower Court that he shall not be the reason for delay and co-operate in the trial and complete the trial within the stipulated time. Considering the long pendency of the case and only eight more witnesses in this case to be examined, the trial Court is directed to complete the trial within three months from the date of receipt of copy of this order.

7. With the above directions, the Criminal Original Petitions are disposed of.

Sd/-
Assistant Registrar(CO)

//True Copy //

Sub Assistant Registrar

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To

1.The Judicial Magistrate - I,
Villupuram, Villupuram District.

2.The Inspector of Police,
District Crime Branch Police Station,
Villupuram, Villupuram District.
(Crime No.03 of 1995)

3.The Public Prosecutor,
High Court, Madras.

CRL.O.P.Nos.23081, 23082, 23084 & 23085 of 2021

KSM(CO)
RVM(16/12/2021)