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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.7877 OF 2022

Vivek @ Vivekraj

... Petitioner

Vs.

The Inspector of Police,
Tambaram Police Station,
Tambaram, Chennai.

(Crime No.5951/2012)

... Respondent

PRAYER:

This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 17.03.2021 passed in Crl.M.P.No.1005 of 2022 in SC.No.290 of 2014 on the file of the learned Additional District and Sessions Judge, Chengalpattu and consequently recall the Non Bailable Warrant which was issued against the petitioner by the learned Additional District and Sessions Judge, Chengalpattu on 06.01.2021 in the said S.C.No.290 of 2014.

For Petitioner : Mr.G.Mohana Krishnan

For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 17.03.2021 passed in Crl.M.P.No.1005 of 2022 in SC.No.290 of 2014 on the file of the learned Additional District and Sessions Judge, Chengalpattu and consequently recall the Non Bailable Warrant which was issued against the petitioner by the



learned Additional District and Sessions Judge, Chengalpattu on 06.01.2021 in S.C.No.290 of 2014.

2. Learned counsel for the petitioner would submit that the petitioner is an accused facing trial in S.C.No.290 of 2014 for the offence under Section 341, 302 and 506(ii) of IPC r/w 34 of IPC. He would further submit that the petitioner's father was suffering from covid and the petitioner was taking care of his father. Later, he was also affected with a covid, thereby, the petitioner was unable to appear before the Trial Court on 06.01.2021. On instructions, the learned counsel, who appeared for the Petitioner before the trial Court had filed an application under Section 317 Cr.P.C., whereas the learned Judge had dismissed the application and had issued nonailable warrant of arrest. Thereafter, the petitioner suffered from jaundice and the recall petition filed by the Petitioner under Section 70(2) of Cr.P.C., was also dismissed on 17.03.2022. The petitioner understands that the Court has initiated proceedings under Section 446 of Cr.P.C. The petitioner is now ready to surrender before the Court and thereby, seeks direction to the Trial Judge to recall the warrant on the same day of surrender.

3. Mr.A.Gokulakrishnan, learned Additional Public Prosecutor would submit that the petitioner is an accused facing trial in SC.No.290 of 2014 . The case is of the year 2012. There are 3 accused in this case. They are taking turns one after another and not appearing and thereby, the trial Court is unable to proceed further. The case was posted on 06.01.2021 for framing of charges. On that day, since the petitioner did not appear before the Court, the Trial Court had issued Non Bailable Warrant of arrest against the petitioner. Despite Non bailable warrant issued on 06.01.2021, the petitioner had not surrendered before the Court. He would further submit that the Petitioner's prayer cannot be granted.

4. Heard both sides and perused the materials available on record.

5. In view of the above, direction is issued to the petitioner to surrender before the Trial Court within a period of two weeks from the date of receipt of a copy of this order and on such surrender and filing of petition, the learned Additional District and Sessions Judge, Chengalpattu is directed to dispose of the petition on the same day of surrender, taking into consideration the merits of the case.



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

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

shk/sai

To

1. The learned Additional District and Sessions Judge,
Chengalpattu
2. The Inspector of Police,
Tambaram Police Station,
Tambaram,
Chennai.
3. The Public Prosecutor,
High Court of Madras.

+lcc to Mr.G.Mohana Krishnan, Advocate, S.R.No.23371

Cr1.O.P.No.7877 of 2022

KV (CO)
PM/11/04/2022