



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2022

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9030 of 2022

1. Prasana @ K.Prasana Kumar
 2. Sudhakar @ Suresh
- ... Petitioners/Acc.A4 & A8

Vs.

The Inspector of Police,
N2 Kasimedu Police Station,
Chennai.
(Crime No.521 of 2010)

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., pleased to direct the learned XVI Additional Sessions Judge, Chennai to recall the Non-Bailable Warrant issued against the Petitioner's/Accused in S.C.No.130 of 2017 on the file of the learned XVI Additional Sessions Judge, Chennai.

For Petitioners : Mr.S.Senthilvel

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed seeking to direct the learned XVI Additional Sessions Judge, Chennai to recall the Non-Bailable Warrant issued against the Petitioner's/Accused in S.C.No.130 of 2017 on the file of the learned XVI Additional Sessions Judge, Chennai.

2. Learned counsel appearing for the petitioners would submit that the petitioners are arrayed as accused A4 and A8, facing trial in S.C.No.130 of 2017 on the file of the learned XVI Additional Sessions Judge, Chennai, for offences under Section 397 of IPC r/w 34 of IPC. He would further submit that the petitioners are unable to appear before the trial Court on 27.11.2019 and the learned trial Judge had issued Non Bailable Warrant of arrest. He would also submit that the petitioners were regularly appearing before the Court and only on 27.11.2019, they were unable to appear, thereby, the Court had issued Non Bailable Warrant. He would further reiterate that the petitioners are ready to surrender and recall the Non Bailable



Warrant and thereby, he would seek for a direction to the learned trial Judge to recall the Non Bailable Warrant.

3. Per contra, learned Additional Public Prosecutor would submit that the petitioners are arrayed as accused A4 and A8 facing trial for offences under Section 397 of IPC in S.C.No.130 of 2017. He would further submit that the Crime Number is of the year 2010 and the Sessions Case Number is of the year 2017 and there are totally 9 accused in this case and they have been absconding and thereby, the respondent police is unable to complete the trial. He would also submit that the petitioners did not appear on 02.06.2017 and the warrant is pending from 2017. He would further reiterate that the petitioners are habitual offenders and thereby, the said direction to recall the Non Bailable Warrant of arrest can not be issued.

4. Heard the learned counsel and perused the materials available on record.

5. It is reported that the Non Bailable Warrant has been issued on 02.06.2017 and it is also stated that there are several other cases are pending against the petitioners and due to absence of the petitioner, there is no progress in the trial.

6. In view of the above, this Court is of the opinion that the said order to recall the Non Bailable Warrant of arrest cannot be passed by this Court. However, the petitioners are directed to surrender before the concerned Court and file an application to recall the Non Bailable Warrant of arrest. On such application being filed, the trial Court shall consider the same and pass orders on the recall petition on the same day of their surrender, taking into consideration the merits of the case.

7. Taking into consideration the fact that the Crime Number is of the year 2010 and the Sessions Case Number is of the year 2017, the learned trial Judge is directed to complete the trial as expeditiously as possible within a period of six months from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

