



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM :

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

Crl.O.P(MD)No.2447 of 2022

Dr.S.Sivasamy

... Petitioner/Accused

Vs.

State Rep. by the  
Drugs Inspector,  
Pudukkottai Range Incharge,  
Office of the Drugs Inspector,  
1093, Kannadasan Salai,  
Rajagopalapuram Post,  
Pudukkottai-622 003.

... Respondent/Complainant

**Prayer:** This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the learned Judicial Magistrate, Aranthangi to recall the warrant issued against the petitioner on 12.08.2021 in connection with the STC No.195 of 2013 on the file of him considering the warrant recall petition filed by the petitioner under Section 70(2) of Cr.P.C. on the same day of its filling without physical presence of the petitioner.

For Petitioner : Mr.R.Sevugaraja  
For Respondent : Mr.M.Sakthi Kumar  
Government Advocate (Crl. side)

### **O R D E R**

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the respondent.

2.The petitioner is facing trial in S.T.C.No.195 of 2013 on the file of the learned Judicial Magistrate, Aranthangi. The petitioner filed Crl.O.P.(MD)No.11200 of 2013 for quashing the proceedings. I declined to accept the request for quashing. But I had dispensed with the appearance of the petitioner. This order was passed on 18.06.2018. On 12.08.2021, it appears that the counsel for the petitioner also did not appear. Therefore, the learned Judicial Magistrate, Aranthangi, rightly issued Non-Bailable Warrant against the petitioner herein. Aggrieved by the issuance of the Non-Bailable Warrant, this petition has been filed.

3.The petitioner is a qualified Allopathic Doctor. He is aged about 70 years. On 12.08.2021, for the earlier hearings, the prosecution did not produce any evident witness. We are in pandemic times. Therefore, the warrant issued against the petitioner deserves to be recalled. However, I cannot fault the Court below for having issued the warrant. Because, the petitioner's counsel failed to appear.



4. Therefore, as and when physical hearing resumes, the petitioner shall appear on the first hearing date, thereafter and apply for recall of warrant. I can take judicial notice of the fact that when recall petition in Non-Bailable Warrants are filed, the accused are made to sit in a corner and the warrant is recalled only at the end of the day. The petitioner does not deserve to be treated so. Therefore, as and when after the petitioner files recall petition, it shall be recalled shortly thereafter. The petitioner however has to appear in person for the recall of warrant. The petitioner undertakes to make such an appearance, when the physical hearings resume. Since such an undertaking has been given, the Non-Bailable Warrant issued against the petitioner shall be kept in abeyance.

5. This Criminal Original Petition is disposed of on these terms.

Sd/-

Assistant Registrar (As)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sjj

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Judicial Magistrate, Aranthangi.

2. Drugs Inspector,  
Pudukkottai Range Incharge,  
Office of the Drugs Inspector,  
1093, Kannadasan Salai,  
Rajagopalapuram Post,  
Pudukkottai-622 003.

3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Crl.O.P (MD) No.2447 of 2022  
04.02.2022

MGJ(25.02.2022) 2P 4C

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