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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.04.2022
CORAM:
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)Nos.359 and 354 of 2022

Brigette Amutha ... Petitioner
in Crl.RC(MD).359/2022

Brigette Kanmani ... Petitioner
in Crl.RC(MD).354/2022

Vs.

A.Victoria ... Respondent
in both Cases

Prayer in Crl.R.C.(MD)No.359 of 2022 : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the learned Additional Mahila Court at Magisterial Level, Thanjavur in Cr.M.P.No.317 of 2022 in C.M.P.No.60 of 2020 in D.V.C.No.17 of 2018 dated 22.03.2022 and to set aside the same and further direct the Cr.M.P.No.317 of 2022 in C.M.P.No.60 of 2020 in D.V.C.No.17 of 2018 to recall the bailable warrant against the petitioner.

Prayer in Crl.R.C.(MD)No.354 of 2022 : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the learned Additional Mahila Court at Magisterial Level, Thanjavur in Cr.M.P.No.316 of 2022 in C.M.P.No.60 of 2020 in D.V.C.No.17 of 2018 and to set aside the same and further direct the Cr.M.P.No.316 of 2022 in C.M.P.No.60 of 2020 in D.V.C.No.17 of 2018 to recall the bailable warrant against the petitioner.

For Petitioner
in each of the petitions : Mr.Aayiram K.Selvakumar

For Respondent
in both the cases : Mr.A.Saravanan
(in both petitions)

COMMON ORDER

These Criminal Revision Petitions have been filed to call for the records of the learned Additional Mahila Court at Magisterial Level, Thanjavur in Cr.M.P.Nos.316 and 317 of 2022 in C.M.P.No.60 of 2020 in D.V.C.No.17 of 2018 dated 22.03.2022 and to set aside the same and further direct the Cr.M.P.Nos.316 and 317 of 2022 in C.M.P.No.60 of 2020 in D.V.C.No.17 of 2018 to recall the bailable warrant against the petitioner.

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2. The petitioner is the accused in the domestic violence complaint filed by the respondent herein under Sections 18, 19, 20, 21 and 22 of Protection of Women from Domestic Violence Act, 2005. On receipt of the summons, the petitioner failed to appear before the trial Court and as if, she was set ex parte and the order was passed on 14.06.2019. Thereafter, the respondent filed a petition under Section 125 (3) Cr.P.C., r/w Section 28(1) of Protection of Women from Domestic Violence Act, to execute the order passed under the Domestic Violence Act before the learned Judicial Magistrate No.I, Thanjavur. It was filed before the Judicial Magistrate No.I, Thanjavur, thereafter it was transferred to the file of Additional Mahila Court at (Magisterial Level), Thanjavur, by the learned Chief Judicial Magistrate, Thanjavur @ Kumbakonam.

3.Thereafter, the petitioner was issued notice and several chances were given to her for appearance. However, she did not appear before the Court below and as such the bailable warrant has been issued against her on 17.04.2021. While pending bailable warrant, the petitioner without her appearance, she filed a petition to recall the bailable warrant issued against her, for the reason that she is suffering with illness and also had eye problems. However, those reasons for non-appearance cannot be accepted. Since, once the warrant issued against the person, they must appear before the Court for recall of warrant. Only on rare and rarest circumstances, the accused person may be dispensed with.

4.Whereas, in the case of the petitioner, she can very well appear before the Court below to recall the bailable warrant. Therefore, the Court below rightly dismissed the petitions and this Court finds no infirmity or illegality in the orders passed by the Court below.

5.Accordingly, these Criminal Revision Petitions stand dismissed.

Sd/-

Assistant Registrar(Writes)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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.

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To:-

The Additional Mahila Court at Magisterial Level,
Thanjavur.

+2 CC to M/s.A.SARAVANAN, Advocate (SR-20867,20868[F] dated 25/04/2022)

Crl.R.C.(MD)Nos.359 and 354 of 2022
Date:22/04/2022

SA(25.05.2022) 3P 4C

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