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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2022

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THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P (MD) No.6016 of 2021

S.Ganesh

.. Petitioner/Accused No.1

Vs

1.Suni Nisha Merlin

2.Minor Jebarin

.. Respondents/Complainants

(R - 2 represented through his mother R - 1)

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District to entertain the petition to re-call the Non-Bailable Warrant issued on 30.08.2019 and surrender petition to be filed by the petitioner's counsel in C.C.No.84 of 2018 on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District without requiring the physical presence of the petitioner and further direction to dispose of the petition to re-call non-bailable warrant on the same day of filing.

For Petitioner : Mr.S.Balaji

ORDER

This Criminal Original petition has been filed to direct the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District to entertain the petition to re-call the Non-Bailable Warrant issued on 30.08.2019 and surrender petition to be filed in C.C.No.84 of 2018 on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District and further direction to dispose of the petition to re-call non-bailable warrant on the same day of filing.

2. The learned counsel appearing for the petitioner would submit that on 30.08.2019, non-bailable warrant was issued against the petitioner and his father. Thereafter, on 14.11.2019, the petitioner and his father surrendered and were let on bail on 15.11.2019 with a conditional order. Till now, the above said non-bailable warrant was not re-called and pending against the petitioner.



3. When the matter came up for hearing on 28.04.2021, this Court directed the Registry to call for the report from the trial Court.

4. On a perusal of the report received from the learned Judicial Magistrate No.I, Padmanabhapuram, dated 18.06.2021, revealed that subsequent to the issuance of non-bailable warrant on 30.08.2019, the petitioner/first accused has surrendered before the trial Court and the petition to cancel the non-bailable warrant has been dismissed and he has been remanded to judicial custody on 14.11.2019. Thereafter, on 15.11.2019, the petitioner has been enlarged on bail. The non-bailable warrant issued on 30.08.2019 as against the petitioner is not pending. However, on 11.03.2020, a fresh non-bailable warrant has been issued against the petitioner/first accused and it is pending till date.

5. In view of the above, the petitioner is directed to appear before the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District, on the next hearing and to file a petition under Section 70(2) of Cr.P.C., to recall NBW already issued against him. On filing of such petition, the concerned learned Magistrate is directed to consider the same on its own merits in accordance with law and pass orders on the same day.

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

Sd/-

Deputy Registrar(A/Cs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ps

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,
Padmanabhapuram,
Kanyakumari District.

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

+1 CC to M/s.S.BALAJI, Advocate (SR-10023[F] dated 04/03/2022)

Cr1.O.P (MD) No.6016 of 2021
03.03.2022

se (CO)
TR(16.03.2022) 3P 4C