



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.05.2022

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C(MD)No.487 of 2022

C.Selvakumar

... Petitioner/ Petitioner/
Defacto Complainant

Vs.

State represented by the Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam.

In Crime No.115/2021

... Respondent/ Respondent/
Complainant

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to the order in Crl.M.P.No.2103/2022 in C.C.No.183/2022 dated 12.05.2022 passed by the Learned Judicial Magistrate, Thirumangalam, Madurai District and set aside the same and direct the Learned Judicial Magistrate to issue non-bailable warrant to all accused in C.C.No.183/2022 on the file of the Learned Judicial Magistrate, Thirumangalam.

For Petitioner	:	Mr.K.Kannan
For Respondents	:	Mr.S.Manikandan Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.2103/2022 in C.C.No.183/2022, dated 12.05.2022 by the Learned Judicial Magistrate, Thirumangalam, Madurai District and to direct the Learned Judicial Magistrate to issue non-bailable warrant to all accused in C.C.No.183/2022 on the file of the Learned Judicial Magistrate, Thirumangalam.

2.A case was registered against the accused in Crime No.115 of 2021. The respondent police after investigation filed absconding charge sheet and the the learned Judicial Magistrate, Thirumangalam has taken the case on file in C.C.No.183 of 2022 and issued the summons to all the accused. Challenging the same, the petitioner has filed this Criminal Revision Case.



3.The learned counsel for the petitioner would submit that all the offences charged against the accused are non-bailable offences. The accused have not been secured by the respondent police and they filed only the absconding charge sheet. Under these circumstances, the petitioner filed a petition under Section 82 of Cr.P.C., to issue the non-bailable warrant to all the accused. However, the learned Judicial Magistrate, Thirumangalam instead of sending non-bailable warrant, issued summons to all the accused.

4.Admittedly, all the accused are absconding and the respondent police has not secured the accused either during investigation or while filing the charge sheet and they filed absconding charge sheet against all the accused. Though the learned Judicial Magistrate has power either to send summon or warrant but in this case, the respondent police has not secured any of the accused either during investigation or while filing the charge sheet and even the learned Judicial Magistrate failed to consider the said fact that the accused have not appeared before the Court and the respondent police. Therefore, issuance of summons will not serve any purpose. Since the respondent police filed the absconding charge sheet and the learned Judicial Magistrate also taken the case on file in the absence of the accused, the impugned order passed by the learned Judicial Magistrate, Thirumangalam calls for interference and the same is set aside and the learned Judicial Magistrate, Thirumangalam is directed to issue non-bailable warrant to all the accused.

5. With the above directions, this Criminal Revision Case stands allowed.

Sd/-

Assistant Registrar (Vacation
Officer)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sn/ias

To

1. The Judicial Magistrate, Thirumangalam,
Madurai District.

2.The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam.

<https://hcservices.ecourts.gov.in/hcservices/>



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

+1 CC to M/s.K. KANNAN, Advocate (SR-24127[F] dated 25/05/2022)

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25.05.2022

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