



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.10375 of 2022

A.K.Dayalakannan

... Petitioner

Vs

1. The Inspector of Police,
Tisayanvillai Police Station,
Tirunelveli District.

2. M. Bensum @ Nambirajan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to execute the Non-Bailable Arrest Warrant issued against the second respondent/Accused in S.T.C.No. 119 of 2020, on the file of the learned District Munsif cum JM, Radhapuram, Tirunelveli District.

For Petitioner : Mr. Raja Mohamed B N

For Respondents : Mr.R.Suresh Kumar (R1)

Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to execute the Non-Bailable Warrant issued against the second respondent/Accused in S.T.C.No. 119 of 2020, on the file of the learned District Munsif-cum- Judicial Magistrate, Radhapuram, Tirunelveli District.

2.The learned counsel appearing for the petitioner submitted that the petitioner has lodged a private complaint, against the second respondent, for the offence punishable under Section 138 of Negotiable Instruments Act. Originally, the case was taken on file by the learned Judicial Magistrate as S.T.C.No.761 of 2015. Subsequently, the case was transferred to the District Munsif -cum- Judicial Magistrate Court, Radhapuram and renumbered as S.T.C.No.119 of 2020. Due to non-appearance of the accused, Non-bailable warrant was issued by the learned Magistrate. Now the petitioner seeks to give a direction to the first respondent police to execute the Non-bailable warrant.

3.Perusal of petition reveals that in the petition, the petitioner did not mention, which Court has taken cognizance of his petition. The learned counsel appearing for the petitioner has represented that it has to be understood by this Court, as the same was mentioned, in page No.7 of the affidavit. But there is no mention about the date on which the Non-bailable warrant was issued by the learned District Munsif -cum- Judicial Magistrate, Radhapuram.



4.The learned Government Advocate (Crl.Side) has submitted that there is no instruction from the police with regard to the Non-bailable warrant issued by the District Munsif cum Judicial Magistrate Court, Radhapuram.

5.Perusal of the records reveal the facts that a private complaint has been filed by the petitioner, against the accused, for the offence punishable under Section 138 of Negotiable Instruments Act. Initially, the case was taken on file by the learned Judicial Magistrate, Naguneri, as S.T.C.No.761 of 2015 and subsequently, it was transferred to the District Munsif cum Judicial Magistrate Court, Radhapuram and renumbered as S.T.C.No.119 of 2020. Due to the non-appearance of the petitioner, non-bailable warrant has been issued to secure him. The particulars of the Non-bailable warrant, ie., date of issuance of Non-bailable warrant is not available on record. The learned Government Advocate (Crl.Side) also not able to give any instructions about the stage of the Non-bailable warrant. As per the provision under 70(2) of Cr.P.C, every such warrant shall remain in force until it is cancelled by the Court which issued or until it is executed.

6.In this case, the particulars of the non-bailable warrant issued against the accused as to whether it is cancelled by the learned Judicial Magistrate or it is executed by the police, is not available on record. Under these circumstances, this Court is not able to give any instructions to the first respondent to execute the said warrant.

7.Accordingly, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

PNM

To

1.The District munsif cum Judicial Magistrate,
Radhapuram, Tirunelveli district.

2.The Inspector of Police,
Tisaynvillai Police Station,
Tirunelveli District.



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

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