



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.10804 of 2022

R.Kulanthaivel

... Petitioner/Respondent

Vs

1. Viji

2. Minor.Sundaravathani

(R2 represented by her mother and natural guardian the R1 herein).

... Respondents/Petitioners

3. The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.

... Respondent/Complainance

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the learned Judicial Magistrate, Pattukottai to consider the petitioner's warrant recall petition as well as bail petition on the same day in connection with Cr.M.P.No.2904 of 2018, on the file of the Judicial Magistrate Court, Pattukottai.

For Petitioner : Mr. Balakrishnan R

For Respondents : Mr.R.Sureshkumar (R3)

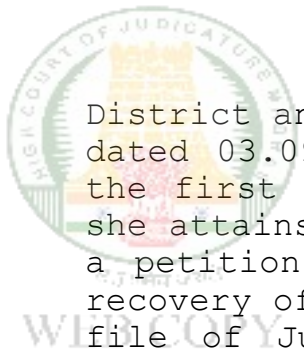
Government Advocate (Crl.Side)

O R D E R

This Criminal Original Petition has been filed to direct the learned Judicial Magistrate, Pattukottai to consider the petitioner's warrant recall petition as well as bail petition on the same day in connection with Cr.M.P.No.2904 of 2018, on the file of the Judicial Magistrate Court, Pattukottai.

2.The learned counsel appearing for the petitioner has submitted that the petitioner is the husband of the first respondent and father of the second respondent. Due to difference of opinion, they are living separately. The petitioner has filed H.M.O.P.No.45 of 2006, on the file of Sub Court, Pudukottai, for restitution of conjugal rights and alternatively for divorce. In the meanwhile, the first and second respondents have filed a petition in M.C.No.8 of 2005, on the file of learned Judicial Magistrate, Pattukottai, seeking maintenance of a sum of Rs.2,000/- per month to the first respondent and Rs.1,500/- to the second respondent. The learned Magistrate has dismissed the petition, in respect of the first respondent and awarded Rs.2,000/- as maintenance to the second respondent.

3.Aggrrieved over the same, the respondents 1 and 2 filed an appeal in Crl.R.C.No.21 of 2011, on the file of III Additional



District and Sessions Judge, Tanjore and the learned Judge, by order dated 03.09.2014, enhanced the maintenance amount to Rs.5,000/- to the first respondent and Rs.2,000/- to the second respondent, till she attains majority. Thereafter, the respondents Nos.1 and 2 filed a petition on 12.03.2015, under Section 125(3) of Cr.P.C, seeking recovery of arrears amount in Cr.M.P.No.3087 of 2015, pending on the file of Judicial Magistrate, Aranthangi. That petition was not pressed on 26.02.2016 and again after a lapse of one year on 29.05.2018, the respondents 1 & 2 filed another petition in Cr.M.P.No.2904 of 2018 on the file of learned Judicial Magistrate, Pattukottai, seeking to recover the arrears of maintenance, which is barred by limitation. Anyhow, the learned Magistrate numbered the petition and issued non-bailable warrant against the petitioner on 31.05.2019. Now the petitioner has filed this petition, seeking to recall non-bailable warrant.

4.I consider the matter in the light of the submissions made on either side. The learned Magistrate has issued non-bailable warrant against the petitioner, for his non-appearance on 31.05.2019. For recalling non-bailable warrant against the petitioner, the petitioner has come before this Court. The petitioner cannot invoke 482 Cr.P.C for recalling non-bailable warrant. I find no merits in this petition.

5.Accordingly, this Criminal Original Petition stands dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

PNM

To

1.The Judicial Magistrate,Pattukottai.

2.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.

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

+1 CC to M/s.R. BALAKRISHNAN, Advocate (SR-26509[F] dated
17/06/2022)

CRL.O.P (MD) No.10804 of 2022

17.06.2022



WEB COPY

Crl.O.P.(MD) No.10804 of 2022