



Crl.O.P.(MD) No.16702 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.16702 of 2022

Jeyaprakash @ Kuruvi

...Petitioner

vs

**The Inspector of Police
Veeracholan Police Station,
Virudhunagar District.**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the respondent to recall non bailable warrant dated 11.08.2022 issued by the learned Additional District and Sessions Court, Virudhunagar in S.C.No.97 of 2018.

For Petitioner : Mr.S.Balaji

**For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor**

ORDER

This Criminal Original Petition has been filed to direct the Respondent to recall Non Bailable Warrant dated 11.08.2022 issued by the



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learned Additional District and Sessions Court, Virudhunagar in S.C.No.97 of 2018.

2. This Petition has been filed by A1 who is facing charge in S.C. No. 97 of 2018 on the file of the Additional District and Sessions Court, Virudhungar.

3. It is the submission of the learned Counsel for the Petitioner that this Petition has been filed seeking direction to the Additional District and Sessions Court, Virudhungar, to recall the Non-Bailable Warrant issued against the Petitioner.

4. The power under Section 482 Cr.P.C cannot be misused by the accused in this manner. It is clarified that most of the accused are failing to co-operate with the trial proceedings. Considering the right of the accused to bail as per statutory provisions, the Criminal Courts are lenient in granting bail. Based on the ruling of the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]***, while granting bail, the Court whether the Magistrate Court or the Sessions Court or the High



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Court shall insist upon the accused who face the criminal case that they should co-operate with the pending investigation. After completion of investigation, they should co-operate with the trial proceedings before the trial Court concerned. In the very same ruling, the Hon'ble Supreme Court had laid down that if the accused after release on bail, failed to co-operate with the pending investigation or trial, the Investigating Officer or the Station House Officer of the police station concerned can approach the learned Judicial Magistrate concerned even if bail is granted by the High Court or Supreme Court. In this case, the said condition had been violated by the Petitioner herein who is arrayed as A1 in the Sessions Case. It is found repeatedly in grave offences that when there are more than one accused, one of the accused is wantonly absconding and thereby preventing the trial Court from proceeding with the trial, it is nothing but harassing the prosecution witnesses. Speedy trial is not for the accused alone. It is also for the victim. Considering those provisions, the audacity of the Petitioner in seeking direction to the learned Additional District and Sessions Judge to consider the recall petition cannot at all be treated leniently.



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5. The learned Additional Public Prosecutor would submit that the Petitioner may be directed to co-operate with the pending trial. There are totally nine accused in this case and the Petitioner herein is arrayed as A1. When the prosecution was about to commence examination of the witnesses, the Petitioner herein was absconding.

6.If the Petitioner surrenders before the learned Additional District and Sessions Judge Virudhunagar, the learned Judge may pass appropriate orders. If the Petitioner is secured by the Police on execution of warrant, he shall be detained in prison till the trial is completed. Similarly, if the other accused persons wantonly evade from the due process of law, the learned Judge, following the ruling of the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala*** reported in ***(2005)AIR SCW 5560*** shall detain them. Further, the Inspector of Police, Veeracholan Police Station, Virudhunagar District, is directed to follow the rulings laid by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala*** reported in ***(2005)AIR SCW 5560***.



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7. Hence, the Criminal Original Petition stands dismissed.

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Internet: Yes./No

Index: Yes/no

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To

1. The Inspector of Police
Veeracholan Police Station,
Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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