



Crl.O.P.(MD) No.18422 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.18422 of 2022

P.S.Govindaraj

...Petitioner

vs

1. K.Muthukumar

**2. The Superintendent of Police
Madurai District**

**3. The Inspector of Police
Kadupatty Police Station
Madurai District**

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the third Respondent Police to execute the Non Bailable Warrant issued against the 1st Respondent in STC No.537 of 2016 pending on the file of learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai within the time frame as fixed by this Court.

For Petitioner : Mr.S.Balaji

**For R2 and R3 : Mr.R.Sivakumar
Government Advocate(Crl.Side)**



Crl.O.P.(MD) No.18422 of 2022

ORDER

WEB COPY

This Criminal Original Petition has been filed to direct the third Respondent Police to execute the Non Bailable Warrant issued against the first Respondent in STC No.537 of 2016 pending on the file of learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai within the time frame as fixed by this Court.

2. The learned Counsel for the Petitioner submits that the Petitioner is the Complainant in STC No.537 of 2016 on the file of the learned Judicial Magistrate No.I, Fast Track Court(Magisterial level),Madurai for the offence under Section 138 of the Negotiable Instrument Act.

3. It is the contention of the learned Counsel for the Petitioner that after repeated direction from this Court, the learned Magistrate is unable to proceed with the case as the accused is absconding and Non Bailable Warrant is pending. The learned Counsel for the Petitioner invited the attention of this Court to the daily status of the case diary, which reads as follows:



“ Complainant present and memo filed along with order of Crl.O.P(MD) No.7322 of 2022 of the Hon'ble High Court is produced and order stated that this case to be completed within six months. Memo recorded. Non Bailable Warrant pending against the accused is still pending. Hence issue reminder notice to the Superintendent of Police, Madurai District to take necessary action regarding the Non Bailable Warrant issued against the accused. For further proceedings C/o.14.06.2022”.

4. However the same accused is appearing before the learned Judicial Magistrate, Vadipatti, where also Non Bailable Warrant is pending. Therefore he had approached this Court seeking direction against the police officials to execute the warrant to secure the accused.

5. The Superintendent of Police, Madurai District and the Inspector of Police, Kadupatty Police Station is directed to execute the warrant and produce the accused before the learned Magistrate, Fast Track Court, Madurai. Also the learned Principal District Judge, Madurai and the District Collector, Madurai District along with the Superintendent of Police and Commissioner of Police, Madurai District are directed to form separate unit



Crl.O.P.(MD) No.18422 of 2022

regarding execution of Non Bailable Warrant pending in the trial Courts.

When this Court had directed the trial Judge to proceed with the case and dispose the case within the specified time, it is found in variably that one of the accused absconds. In 138 Negotiable Instrument Act cases, it is invariably sole accused, whereas in Sessions Cases, where more accused is involved and repeatedly one of accused is absconding. Therefore special unit may be formed so that Non Bailable Warrant can be executed regularly and the trial judges are directed that when the accused is produced on execution of warrant, the bail already granted to the accused shall be cancelled as per the reported ruling of the Hon'ble Supreme Court in ***P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*** and the accused may be directed to detain in prison till the trial is completed. The accused treats fair trial as a constitutional guaranteed right there by delaying the trial at their whims and fancies, can be avoided and the trial Judge will be able to dispose the case in time.

6. In this case, the learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai shall detain the accused on execution of warrant till the case is completed.



Crl.O.P.(MD) No.18422 of 2022

WEB COPY

7. The learned Government Advocate(Crl.Side) would submit that the same accused had surrendered before the learned Judicial Magistrate, Vadipatti and the learned Magistrate, Vadipatti had directed the accused to appear the learned Judicial Magistrate, Vadipatti for 30 days.

8. In the light of the submission made by the learned Government Advocate(Crl.Side) the learned Judicial Magistrate, Vadipatti is directed to direct the accused in CC. No.92 of 2022 to appear before the learned Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai within one week failing which he shall be detained.

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

19.10.2022

Internet:Yes./No
Index:Yes/no
aav

5/7



Crl.O.P.(MD) No.18422 of 2022

To

1. The Commissioner of Police, Madurai District
2. The Superintendent of Police, Madurai District
3. The Principal District Judge, Madurai
4. The Judicial Magistrate No.I, (Fast Track Court at Magisterial Level), Madurai.
5. The Judicial Magistrate, Vadipatti
6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.18422 of 2022

SATHI KUMAR SUKUMARA KURUP, J.

aav

CRL.O.P (MD) No.18422 of 2022

19.10.2022