



CrI.O.P.(MD) No.22341 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD) No.22341 of 2022

R.Siva,

: Petitioner

Vs

The Inspector of Police,
All Women Police Station,
Pudukottai,
Thoothukudi District.
in Crime No.01/2016

: Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying this Court to direct the learned Sessions Judge, Mahila Court, Thoothukudi, to consider to recall the Non Bailable Warrant, dated 26.11.2021, issued against the petitioner in SC No.51 of 2020, on the file of the learned Sessions Judge, Mahila Court, Thoothukudi, on the same day of filing a petition filed under Section 70(2) Cr.P.C. without insisting for the presence of the petitioner.

For Petitioner	: Mr.M.Maran
For R1	: Mr.E.Antony Sahaya Prabahar Additional Public Prosecutor



CrI.O.P.(MD) No.22341 of 2022

ORDER

WEB COPY This criminal original petition has been filed seeking a direction to the learned Sessions Judge, Mahila Court, Thoothukudi, to consider to recall the Non Bailable Warrant, dated 26.11.2021, issued against the petitioner in SC No.51 of 2020, on the file of the learned Sessions Judge, Mahila Court, Thoothukudi, on the same day of filing a petition filed under Section 70(2) Cr.P.C. without insisting for the presence of the petitioner.

2.It is evident that the petitioner has filed a petition in CrI.O.P(MD)No. 4481 of 2022, and this Court, vide order, dated 09.03.2022, directed the petitioner to appear before the learned Sessions Judge, Mahila Court, Thoothukudi, on the next hearing and file a petition under Section 70(2) of Cr.P.C. to recall the non-bailable warrant, which was already issued against him and on such filing, the concerned Judge was directed to consider the same on its own merits in accordance with law and pass orders on the same day.

3.The learned Counsel appearing for the petitioner would submit that the petitioner had received the said order copy only on 24.03.2022 and that



CrI.O.P.(MD) No.22341 of 2022

due to non-availability of leave, the petitioner, who is working in Military, was not in a position to comply with the above said order. Further he would submit that since the petitioner was granted leave for a period from 28.11.2022 to 27.12.2022, the petitioner is constrained to file the above application seeking the same directions.

4.Considering the above facts and circumstances of the case, this Court directs the petitioner to appear before the learned Sessions Judge, Mahila Court, Thoothukudi, within a period of one week, from the date of receipt of a copy of this order and file a petition under Section 70(2) Cr.P.C to recall the non-bailable warrant issued against him. On filing of such petition, the concerned Judge is directed to consider the petitioner's application filed under Section 70(2) Cr.P.C., on the same day and pass appropriate orders on merits and in accordance with law.

5. It is needless to say that the Court below while considering the said petition shall look into the gravity of the offence, previous recalling of NBW and other attending circumstances and pass orders. Mere direction issued by this Court to consider the petition filed under Section 70(2) of Cr.P.C., on the



CrI.O.P.(MD) No.22341 of 2022

same day, does not amount to consider it favorably.

WEB COPY

6. With the above directions, this criminal original petition is disposed of.

19.12.2022

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

lr

Note: Issue order copy on 20.12.2022.

To

1. The Sessions Judge, Mahila Court,
Thoothukudi

2. The Inspector of Police,
All Women Police Station,
Pudukottai,
Thoothukudi District.

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



WEB COPY



Crl.O.P.(MD) No.22341 of 2022

K.MURALI SHANKAR, J.

lr

Crl.O.P.(MD) No.22341 of 2022

19.12.2022