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Crl.O.P.No.3081 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.3081 of 2023

K.Moorthy @ Jaya Moorthi @ K.N.K.Senje Raja ... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Gingee Sub Division, Gingee.

2.The Inspector of Police,
Gingee Police Station,
Gingee.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to direct the Special Sessions Judge for SC/ST Cases, Villupuram, to accept the petition filed under Section 70(2) of Cr.P.C., and consider the same on the filing of the day itself.

For Petitioner : Mr.K.Moorthy @ Jaya Moorthi @ K.N.K.Senje Raja
Party-in-person

For R1 : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



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ORDER

The petitioner herein appears as party in person seeks recall of warrant issued against him for non appearance before the trial Court on 21.12.2022.

2. The petitioner herein is facing the trial in S.C.No.1/2015 on the file of the Special Sessions Judge for SC/ST Cases, Villupuram. As per his petition, on 21.12.2022, he had attended the Court of Hon'ble Mr.Justice V.Sivagnanam as party in person in Crl.R.C.No.1617 of 2022 and therefore, he was not able to present physically before the Special Sessions Judge for SC/ST Cases, Villupuram hearing in S.C.No.1 of 2015. Hence Non Bailable Warrant was issued against him. According to the petitioner, he has informed the Court through e-mail that his advocate to attend physically on the date of hearing.

3. In this petition he seeks for recall of warrant under Section 70(2) of Cr.P.C. When he being physically present before the Court for the said purpose, he has also enclosed two judgments of this Court which according to him allow an accused to recall the warrant issued for his non



appearance even without he been present.

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4. When the matter came up for admission on 28.02.2023, this Court called for the report from the Special Sessions Judge for SC/ST Cases, Villupuram to ascertain whether the petitioner had filed any application to recall warrant under Section 70(2) of Cr.P.C., before the Court. The Presiding Officer has sent report wherein it is stated that there is a direction by the Hon'ble High Court in Crl.O.P.No.20337 of 2022 dated 19.09.2022 to complete the trial in S.C.No.01 of 2015 within a period of three months. The petitioner / accused appeared as party in person. He is not cooperating with the trial and he has refused to cross examine the witnesses on the day when the witnesses are present. Subsequently, he remained absent on the next hearing date. He has not cross examined PW.1 to PW.8 so far.

5. Though the matter is pending for trial since 2007, on 25.01.2023, a petition under Section 70(2) of Cr.P.C., was filed by an advocate on behalf of the petitioner without vakalat. After considering the representation made by the petitioner herein, the averment made in the



petition as well as the report of the Presiding Officer, it is suffice to say that the petitioner who was not present on the date of hearing now suffers NBW which has to be recalled in the manner known to law. Hence he is directed to appear before the Court which has issued warrant and seeks recall of warrant either filing a petition or engage a counsel or through advocate. If any such application is filed, the Court will take note of the fact that the petitioner who is the accused and contesting the case as a party-in-person so far may need a better consideration, since he is not conversant with the legal procedure and law.

6. With this observation, this Criminal Original Petition is disposed of.

21.11.2023

Neutral Citation : Yes/No
rpl

To

1.The Special Sessions Judge for SC/ST Cases, Villupuram.

2.The Deputy Superintendent of Police,
Gingee Sub Division, Gingee.



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