



Crl.O.P.No.27438 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.27438 of 2023

G.Munavar Sulthana

... Petitioner

Vs.

1. A.M.Imthiaz Nazer

2. The Inspector of Police,
E1, Mylapore Police Station,
Chennai – 4.

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to direct the learned XVIII Metropolitan Magistrate, Saidapet, Chennai to issue a non-bailable Warrant in place of distress warrant in D.V.C.No.80 of 2017

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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ORDER

Petitioner herein has got a favorable order for protection against the first respondent under the Domestic Violence Act. Since, there was breach of the order, Court has taken cognizance of the said breach under Section 31 of the Protection of Women from Domestic Violence Act, 2005 and issued Distress Warrant. Petitioner has come before this Court seeking direction to the learned XVIII Metropolitan Magistrate, Saidapet to convert the Distress Warrant as Non Bailable Warrant in D.V.C.No.80 of 2017.

2. The learned counsel appearing for the petitioner submitted that, Distress Warrant for the breach is not adequate. Petitioner must be secured by execution of Non Bailable Warrant.

3. On perusing the petition and relevant provisions of law, this Court is of the view that, distress warrant issued for breach of protection order is an independent action taken by the Magistrate and it must not be substituted for executing the protection order. Therefore, distress warrant issued by the Magistrate is in order and it is in accordance with law. Just because the



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Domestic Violence Act does not explicitly speak about the distress warrant, it does not mean that, learned Metropolitan Magistrate has no power to issue Distress Warrant. The said power is derived from the Code of Criminal Procedure and in the absence of any specific provision under the Special Act, the provision of Court will prevail. It is made clear that, any Non Bailable Warrant issued pursuant to the application under Domestic Violence Act is pending, that has to be executed independently behalf of distress warrant issued for breach of protection order.

4. With this observations and directions, this Criminal Original Petition is disposed of.

06.12.2023

Index : Yes/No
Neutral Citation : Yes/No
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Dr.G.JAYACHANDRAN,J.

Sma

To

1. XVIII Metropolitan Magistrate, Saidapet,
Chennai
2. The Inspector of Police,
E1, Mylapore Police Station,
Chennai – 4.
3. The Public Prosecutor,
Madras High Court

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