



Crl.O.P.(MD)No.1139 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.1139 of 2023

M.Raja Shanmuga

... Petitioner

Vs.

The State represented by its
The Inspector of Police,
Central Crime Branch,
Madurai District.
(Crime No.57 of 2013)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the learned Judicial Magistrate No.1, Madurai to consider the warrant recall petition in C.C.No.79 of 2014 and dispose of the same without insisting upon the presence of accused in court for recalling the warrant.

For Petitioner : Mr.B.Sargunam

For Respondent : Mr.SS.Madhavan
Government Advocate (Crl. Side)



WEB COPY



Crl.O.P.(MD)No.1139 of 2023

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to direct the learned Judicial Magistrate No.1, Madurai to consider the warrant recall petition in C.C.No.79 of 2014 and dispose of the same without insisting upon the presence of accused in court for recalling the warrant.

2. It is seen from the records that the petitioner has earlier filed an application to advance the hearing and to recall the warrant and the learned Magistrate vide order dated 05.07.2022 accepted his surrender and recall the warrant pending against him and further evident that the case stands posted on 14.07.2022 for framing of charges, but the petitioner has not turned up thereafter and hence, the learned Magistrate has passed an impugned order dated 29.12.2022 dismissing the application filed by the petitioner under Section 317 Cr.P.C. and the impugned order is extracted hereunder:-

“Accused Called Absent. The Learned Counsel Filed 317 Petition. The Accused has not appeared before this Court from 14.07.2022. Hence this Court is unable to



Crl.O.P.(MD)No.1139 of 2023

question on the aspects of the charges. A sufficient opportunity is given for his appearance since his appearance is necessary for questioning on the aspect of changes and so his appearance cannot be dispensed with. Therefore 317 Cr.P.C. Petition is dismissed. Issued NBW against Accused. Call on 02.02.2023”

3. As rightly pointed out, the case is pending from 2014 onwards.

4. As rightly observed by the trial Judge, despite of sufficient opportunity given to the petitioner, he has not turned up and because of that the case is pending for the past 9 years. Hence, this Court is not inclined to issue any direction at this point of time.

5. In the result, this Criminal Original Petition stands dismissed.

23.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm



WEB COPY



Crl.O.P.(MD)No.1139 of 2023

K.MURALI SHANKAR,J.

csn

To

- 1.The Inspector of Police,
Central Crime Branch,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.O.P.(MD)No.1139 of 2023

Dated: 23.01.2023