



CrI.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.02.2023

Delivered on : 13.02.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)Nos.1909, 1911, 1912 and 1987 of 2023

Boopathy Raja

... Petitioner
(in all petitions)

Vs.

The State rep.by its,
The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.569 of 2015)

... Respondent
(in CrI.OP(MD)No.1909/2023)

The State rep.by its,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.450 of 2014)

... Respondent
(in CrI.OP(MD)No.1911/2023)

The State rep.by its,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.7 of 2018)

... Respondent
(in CrI.OP(MD)No.1912/2023)



Crl.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

The State rep.by its,
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
Tirunelveli District.
(Crime No.163 of 2015)

... Respondent
(in Crl.OP(MD)No.1987/2023)

PRAYER in Crl.OP(MD)No.1909/2023: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the Chief Judicial Magistrate Court, Tirunelveli, Tirunelveli District to consider the warrant recall petition on the file of the petitioner on the very same day of the filing in S.C.No.262 of 2019 in connection with Crime No. 569 of 2015 on the file of the respondent Police.

PRAYER in Crl.OP(MD)No.1911/2023: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District to consider the warrant recall petition on the file of the petitioner on the very same day of the filing in C.C.No.557 of 2016 in connection with Crime No. 450 of 2014 on the file of the respondent Police.

PRAYER in Crl.OP(MD)No.1912/2023: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the learned Additional Sessions Judge No.III, Tirunelveli, Tirunelveli District to consider the warrant recall petition on the file of the petitioner on the very same day of the filing in C.C.No.54 of 2019 in connection with Crime No.7 of 2018 on the file of the respondent Police.



Crl.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

PRAYER in Crl.OP(MD)No.1987/2023: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the learned Principal Sub-Judge, Tirunelveli, Tirunelveli District to consider the warrant recall petition on the file of the petitioner on the very same day of the filing in S.C.No.653 of 2018 in connection with Crime No.163 of 2015 on the file of the respondent Police.

(in all petitions)

For Petitioner : Mr.R.Suresh Kumar,

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl. Side)

COMMON ORDER

Criminal Original Petition in Crl.OP(MD)No.1909/2023, has been filed, invoking Section 482 Cr.P.C., seeking orders, directing the learned Chief Judicial Magistrate, Tirunelveli, Tirunelveli District to consider the warrant recall petition of the petitioner on the very same day of the filing in S.C.No.262 of 2019, on the file of the said Court.

2. Criminal Original Petition in Crl.OP(MD)No.1911/2023, has been filed, invoking Section 482 Cr.P.C., seeking orders, directing the



Crl.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

learned Judicial Magistrate No.I, Tirunelveli, Tirunelveli District to consider the warrant recall petition of the petitioner on the very same day of the filing in C.C.No.557 of 2016, on the file of the said Court.

3. Criminal Original Petition in Crl.OP(MD)No.1912/2023, has been filed, invoking Section 482 Cr.P.C., seeking orders, directing the learned Additional Sessions Judge No.III, Tirunelveli, Tirunelveli District to consider the warrant recall petition of the petitioner on the very same day of the filing in S.C.No.54 of 2019, on the file of the said Court.

4. Criminal Original Petition in Crl.OP(MD)No.1987/2023, has been filed, invoking Section 482 Cr.P.C., seeking orders, directing the learned Principal Sub Judge, Tirunelveli, Tirunelveli District to consider the warrant recall petition of the petitioner on the very same day of the filing in S.C.No.653 of 2018, on the file of the said Court.

5. The petitioner is facing cases in S.C.No.262 of 2019 on the file of the Chief Judicial Magistrate Court Tirunelveli; C.C.No.557 of 2016



Crl.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

on the file of the Judicial Magistrate Court No.I, Tirunelveli; S.C.No.54 of 2019 on the file of the IIIrd Additional District and Sessions Court, Tirunelveli and S.C.No.653 of 2018 on the file of the Principal Assistant Sessions Judge/Principal Sub Judge, Tirunelveli.

6. It is not in dispute since the petitioner has failed to appear for the hearings on 19.10.2022; 04.05.2022; 15.07.2022 and 04.08.2022 and NBWs were ordered to be issued by the concerned Courts and that NBWs are pending against the petitioner.

7. The main contention of the petitioner is that he is the only breadwinner of his family and due to the petitioner's avocation, he was forced to stay in Chennai and that therefore, he could not appear before the concerned Courts in the above hearing dates.

8. The learned Government Advocate (Criminal Side) appearing for the State would submit that in the case in S.C.No.262 of 2019, NBW was issued for the third time and in all other three cases, NBWs were issued for the first time.



CrI.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

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9. Whatever its, this Court is not inclined to recall the warrants pending against the petitioner, but the concerned Courts are to be directed to consider the applications to recall the warrant and pass orders on the same day on merits and in accordance with law.

10. Hence, the petitioner is directed to surrender before the concerned Courts and file the applications to recall the warrants pending against him within a period of three weeks from the date of receipt of copy of this order and on such surrender, the learned Chief Judicial Magistrate, Tirunelveli; learned Judicial Magistrate No.I, Tirunelveli; learned Additional Sessions Judge No.III, Tirunelveli and the learned Principal Sub Judge, Tirunelveli, are directed to consider the petitions and pass orders on the same day on merits and in accordance with law.

11. It is needless to say that the Court below while disposing the warrant recall petition filed under Section 70(2) Cr.P.C., shall look into the gravity of the offence and as to how many times Non-Bailable Warrant was issued earlier and other surrounding circumstances and to



Crl.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

pass orders. Mere direction issued by this Court to consider the recall petition, does not amount to consider it favorably.

12. With the above directions, these Criminal Original Petitions are disposed of.

13.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The Chief Judicial Magistrate,
Tirunelveli.
- 2.The Judicial Magistrate No.I,
Tirunelveli.
- 3.The Additional Sessions Judge No.III,
Tirunelveli.
- 4.The Principal Sub Judge, Tirunelveli.
- 5.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli City, Tirunelveli District.



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Crl.O.P.(MD)No.1909, 1911, 1912 and 1987 of 2023

K.MURALI SHANKAR,J.

das

6.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City, Tirunelveli District.

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

Pre-delivery order made in
Crl.O.P.(MD)Nos.1909, 1911,
1912 and 1987 of 2023

Dated: 13.02.2023