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Crl.O.P.(MD) No.2872 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.02.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGOVAN**

Crl.O.P.(MD) No.2872 of 2023

Natarajan

... Petitioner/Accused No.3

Vs.

The Inspector of Police,
Vigilance and Anticorruption,
Pudukkottai.
(Crime No.8/1989)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned Chief Judicial Magistrate, Pudukkottai, to accept the petition filed by the petitioner under Section 70(2) of Cr.P.C. to recall the NBW issued on 31.01.2023 in Spl.S.C.No.2 of 1997 without insisting the presence of the petitioner and consider the same on the day itself.

For Petitioner : Mr.D.Rameshkumar

For Respondent : Mr.S.Ravi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking direction to the learned Chief Judicial Magistrate, Pudukkottai, to accept the petition



filed by the petitioner under Section 70(2) of Cr.P.C. to recall the NBW issued on 31.01.2023 in Spl.S.C.No.2 of 1997 without insisting the presence of the petitioner and consider the same on the day itself.

2.The facts in brief:

The petitioner is facing charges under Section 120(b), 409, 420, 467, 471 r/w 467 of IPC and Section 5(1)(c) and (d) r/w 5(3) of Prevention of Corruption Act. Due to his absence, warrant was issued against him on 12.01.2023. So he filed a petition on 31.01.2023 to recall the nonailable warrant. But, the trial Court returned the petition stating that the presence of the accused is necessary. Against which, this petition has been filed by the petitioner.

3.The learned counsel for the petitioner would submit that for recalling the warrant, the presence of the petitioner is not required, in view of the settled preposition of law.

4.Per contra, the learned Additional Public Prosecutor would submit that when the case was posted for examination of this petitioner under Section 313 Cr.P.C., he remaining absent. So the warrant was issued. His presence is very much required for the above said process.



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5. When the case is posted for 313 Cr.P.C. examination, he must be present before the Court. Therefore, at this stage presenting the petition for recalling the warrant without his presence is not at all proper. Hence, I am unable to appreciate the grievance that has been expressed by the learned counsel for the petitioner. Therefore, the petitioner is directed to appear before the trial Court getting the warrant recall by set out the facts and circumstances of the case. I find no reason to entertain this petition.

6. With the above directions this criminal original petition stand dismissed.

14.02.2023

Index : Yes/No
Internet : Yes/No
TM

To

1. The Chief Judicial Magistrate, Pudukkottai.

2. The Inspector of Police,
Vigilance and Anticorruption,
Pudukkottai.

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



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G.ILANGOVA. J.

TM

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