



Crl.O.P.(MD) No.13689 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.08.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.13689 of 2023

1.R.M.Karthikeyan

2.K.Amutavalli

... Petitioners

Vs.

The Inspector of Police,
District Crime Branch,
CBCID,
Dindigul.
Crime No.42 of 2014

..Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned Judicial Magistrate Court No.1, Dindigul, to accept the petition filed by the petitioners under section 70(2) of CR.P.C. to recall the NBW issued on 27.06.2023 in Crl.M.P.No.15194 of 2023 in C.C.No.203 of 2018 without insisting the presence of the petitioners and consider the same on the day itself.

For Petitioner : Mr.V.M.Balamohan Thambi
For Respondent : Mr.SS.Madhavan
Government Advocate (Crl.side)



Crl.O.P.(MD) No.13689 of 2023

WEB COPY

ORDER

This petition is filed seeking for a direction to the respondent police to dispose of the petition filed by the petitioners under Section 70(2) of Cr.P.C. in Crl.M.P.No.15194 of 2023 in C.C.No.203 of 2018.

2.It is submitted that in order to recall the NBW issued against the petitioners on 27.06.2023, on which the petitioners have filed Crl.M.P.No.15194 of 2023 in CC.No.203 of 2018, however, the said application is kept pending by the trial Court without disposing of the same, thereby sought for suitable directions. It is submitted further that the petitioners have been suffering from ill-health and filed medical certificate dated 08.02.2023 given by Dr.Ramakrishna Easwaran to the effect that the petitioner No.1 needs emergency surgery and is not fit for travel and he will need rest for 3 months after surgery, thereby direction is sought for to dispose of the petition even in the absence of the petitioners.

3.Mr.C.Bharathi, learned counsel for the intervenor submits that for the last 3 years, the petitioners have not appeared before the Court at any time and the police also during the course of investigation could not find them, thereby charge



CrI.O.P.(MD) No.13689 of 2023

WEB COPY sheet is filed showing the accused as absconding.

4.The petitioners have filed CrI.O.P.(MD) No.18710 of 2019 and 985 of 2020 seeking to accept the sureties in CC.No.203 of 2018, accordingly, orders were stated to have been passed on 17.11.2023 directing the petitioners to surrender before the learned Judicial Magistrate No.I, Dindigul. In compliance of the orders, the petitioners have appeared before the trial Court on 21.11.2022 and executed the bond.

5.It is submitted that the petitioners again failed to appear, on which fresh NBWs were issued. The petitioners have filed CrI.O.P.(MD) No.4569 of 2023 seeking quashment of the docker order passed by the learned Judicial Magistrate No.I, Dindigul in unnumbered Cr.M.P. in C.F.No.1026/2023 in CC.No.203 of 2018 and the said petition was allowed directing the petitioners to appear through video conferencing on 17.03.2023 and hence, the petitioners appeared through video conferencing and accordingly, the warrants issued against them stated to have been recalled.



Crl.O.P.(MD) No.13689 of 2023

WEB COPY

6.The learned Government Advocate (Crl.side) on the other hand submits that the certificate filed by the petitioners before the trial Court dated 08.02.2023 given by Dr.Ramakrishna Easwaran is obtained by influencing the Doctor through the son of the petitioners. He has filed a certificate dated 10.03.2023 given by the very same Doctor, wherein it is mentioned that the petitioner No.1 was advised to undergo surgery for the pain and he was able to walk well at the time of examination and he did not have any neurological deficits.

7.On considering the certificate issued by Dr.Ramakrishna Easwaran dated 10.03.2023, it is clear that the petitioners have influenced Dr.Ramakrishna Easwaran and got a false certificate on 08.02.2023, thereby they obtained orders from this Court in Crl.O.P.(MD) No.4569 of 2023 to appear through video conferencing. It is submitted further that the petitioner No.1 appeared through video conferencing from his house only and not from the hospital.

8.On considering all the submissions and on perusal of the records, it is clear that right from day 1 onwards, the petitioners have been evading to appear before the Court and in spite of the efforts being made by the police Department



Crl.O.P.(MD) No.13689 of 2023

WEB COPY

to secure the presence, they some how got over and ultimately still they are not attending the Court to face the trial.

9.In view of the above, the request made by the petitioners to direct the learned Judicial Magistrate No.1, Dindigul in the absence of the petitioners cannot be considered. This Petition is therefore disposed of directing the learned Judicial Magistrate No.1, Dindigul to dispose of Crl.M.P.No.15194 of 2023 by insisting the presence of the petitioners.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

01.08.2023

mm

To

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

5/6



WEB COPY



Crl.O.P.(MD) No.13689 of 2023

DR.D.NAGARJUN. J.

mm

Crl.O.P.(MD)No.13689 of 2023

01.08.2023