



Crl.O.P(MD)No.15484 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P(MD)No.15484 of 2023

and

Crl.M.P(MD)No.12289 of 2023

Sethumani Mathavan

... Petitioner / Accused No.2

Vs.

State represented by
The Inspector of Police,
Thanjavur West Police Station,
Thanjavur,
(HRC.No.2 of 2017)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order made in Cr.M.P.No.4127 of 2023 in Crl.M.P.No. 3445 of 2023 in HRC.No.2 of 2017 on the file of the Principal District Judge, Thanjavur on 02.08.2023 and to recall the Non Bailable Warrant issued against the petitioner in HRC No.2 of 2017 on 14.08.2022.

For Petitioner : Mr.M.Palani



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ORDER

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This Criminal Original Petition filed to set aside the order made in Cr.M.P.No.4127 of 2023 in CrI.M.P.No.3445 of 2023 in HRC.No.2 of 2017 on the file of the Principal District Judge, Thanjavur, on 02.08.2023 and to recall the Non Bailable Warrant issued against the petitioner in HRC No.2 of 2017 on 14.08.2022.

2. Learned counsel for the petitioner submitted that the petitioner is facing proceedings in H.R.C.No.2 of 2017 before the learned Principal District Judge, Thanjavur. Because of his non-appearance, non bailable warrant was issued against him. He approached this Court by filing CrI.O.P.(MD)No.428 of 2023. At that time, it was submitted that because of his pre-promotional training, the petitioner could not appear before the Court on the date of hearing and hence a direction was issued to him to appear before the trial Court and get the warrant recalled. In pursuance of the order, the petitioner appeared before the trial Court and filed an application to recall the warrant issued against him by filing Cr.M.P.No. 3445 of 2023. That was also considered by the trial Court but condition was imposed upon him to pay a sum of Rs.5,000/- to the District Legal



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Services Authorities, Thanjavur. That conditions was complied. An another condition was imposed on him that the petitioner's wife must appear as a surety. Since the petitioner is not in a position to produce his wife as a surety and since the petitioner and his wife are not having good conduct and cordial relationship, he has filed an modification petition. That application was dismissed, eventhough an undertaking was given by the petitioner to produce his son who is working as a medical officer in Velammal Hospital, Madurai, as a surety. Only on that ground the application in Cr.M.P.No.4127 of 2023, seeking for recall of warrant, was dismissed on 02.08.2023. To set aside the order of the learned Principal District Judge dated 02.08.2023, this petition has been filed.

3. Heard the learned Additional Public Prosecutor appearing for the respondent.

4. Considering the fact that the petitioner is working as an Inspector of Police, Mathichiyam Police Station, Madurai and considering the fact that the condition imposed upon him by the trial Court to produce his wife as a surety may not be appropriate since an undertaking is given by the petitioner to produce his son as a surety.



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5. Accordingly, the order passed by the learned Principal District Judge, Thanjavur, dated 02.08.2023, is set aside and the trial Court is directed to accept the surety to be executed by the petitioner's son.

6. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition stands closed.

10.10.2023

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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To

1. The Principal District Judge, Thanjavur.
2. The Inspector of Police, Thanjavur West Police Station,
Thanjavur, (HRC.No.2 of 2017)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J

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Order made in
CrI.O.P(MD)No.15484 of 2023
and
CrI.M.P(MD)No.12289 of 2023

Dated 10.10.2023