



CrI.O.P.(MD)No.22401 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **12.12.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

CrI.O.P.(MD) No.22401 of 2023

1.P.Manikumar

2.P.Akilandeswari

3.V.Ponnusamy

4.P.Ramya

5.S.Robert

... Petitioners/Respondents No.1 to 5

Vs.

1.Thilagavathi

...1st Respondent/Complainant

2.The Inspector of Police,
Mayanur Police Station,
Krishnarayapuram Taluk.

...2nd Respondent/ Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned Judicial Magistrate, Krishnarayapuram, Karur District, in S.T.C.No.130 of 2023 to consider the warrant recall petition under Section 70(2) of Cr.P.C., and to accept the fine amount of Rs.5,000/- each from the petitioners and consequently consider the first petitioner's application under Section 389(3) of Cr.P.C., interim suspension of sentence.



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For Petitioner : Mr.B.Anandan

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to direct the learned Judicial Magistrate, Krishnarayapuram, Karur District, in S.T.C.No.130 of 2023 to consider the warrant recall petition under Section 70(2) of Cr.P.C., and to accept the fine amount of Rs.5,000/- each from the petitioners and consequently consider the first petitioner's application under Section 389(3) of Cr.P.C., interim suspension of sentence.

2. By the order, dated 26.12.2022, DVC No.4 of 2021 was allowed by the District Munsif cum Judicial Magistrate, Krishnarayapuram, granting various relieves to the wife/1st respondent herein, that was put into execution. During the course of execution process, petitioner failed to appear and also failed to satisfy the compliance. So the first accused was found guilty under Section 31 of the Protection of Women from Domestic Violence Act, 2005, convicted and sentenced to undergo one year Rigorous Imprisonment and Rs.5,000/- as fine in default to undergo six months Simple Imprisonment. Similarly, accused Nos.2 to 5 are sentenced to pay Rs.5,000/- each, in default to undergo six months



Simple Imprisonment also imposed. On that ground, Non Bailable Warrant was issued against all the petitioners.

3. Seeking direction to the learned District Munsif cum Judicial Magistrate, Krishnarayapuram, this petition has been filed to consider the recall application to be filed by the petitioners on the same day of their surrender.

4. It is a purely misconceived petition. After conviction and sentence, the first accused has to surrender before the concerned Court. There is no question of recall of warrant issued against him. Because, only due to absence of the petitioners, the warrant was issued, against which, recall will not lie. So far, the petitioners No.2 to 5 are concerned, they are sentenced to pay Rs.5,000/- as fine amount. They are directed to pay the above said fine amount either directly or through their Advocate before the concerned Court. There is no question of recall of warrant for petitioners No.2 to 5 also, since on payment of fine amount, the warrant will automatically stand cancelled.



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5. Since it is a misconceived petition, this petition is not entertainable. Hence, this petition deserves to be dismissed and accordingly dismissed.

12.12.2023

Index : Yes/No

Internet : Yes/No

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To

- 1.The Inspector of Police,
Mayanur Police Station,
Krishnarayapuram Taluk.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

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