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Crl.O.P.No.7929 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 16-04-2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CRL.O.P.No.7929 of 2024

R.Senthil Kumar

...

Petitioner

-VS-

State, rep.by
Inspector of Police,
Vigilance and Anti-Corruption,
Tiruvarur.
(Cr.No.1/2021)

...

Respondent

Petition under Section 482 of the Criminal Procedure Code to direct the trial Court to accept the petitioner's surety and conduct trial in Spl.C.C.No.66 of 2023 on the file of Chief Judicial Magistrate – Tiruvarur.

For Petitioner : Mr.M.Simon Jeyakumar

For Respondent : Mr.S.Santhosh,
Govt.Advocate (Criminal Side).

ORDER

This Criminal Original Petition is filed to direct the trial Court to accept the petitioner's surety and conduct trial in Spl.C.C.No.6 of 2023 on the file of Chief Judicial Magistrate – Tiruvarur.



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2. Learned counsel for the petitioner would submit that only a sum of Rs.200/- has been recovered from the petitioner by the Department towards unaccounted income and that a false case has been foisted against the petitioner, for which his presence is not required before the trial Court for conducting trial.

3. Conversely, learned Government Advocate (Criminal Side), appearing for the respondent – State, would submit that the petitioner is not cooperating with the trial Court for framing charges; hence, a Non Bailable Warrant has been issued against him by the said Court and, therefore, this petition is liable to be dismissed. He would also rely on a decision of the Supreme Court in *Srikant Upadhyay v. State of Bihar*, 2024 SCC OnLine SC 282, wherein it is held that failure of accused to appear before the trial Court after receipt of summons, issuance of bailable warrant so also non bailable warrant, would amount to consistent disobedience of the accused to comply with the orders of the Court and that the accused are not entitled to any relief.

4. I have heard the learned counsel for the parties and also gone through the records.

5. On perusal of records and also the counter filed by the respondent, it is seen that in spite of issuance of summons, the petitioner is avoiding appearance before the trial Court for conducting trial and, only in such circumstances, the trial Court has issued a Non Bailable Warrant against the petitioner, which, in the considered opinion



of this Court, cannot be faulted with. In addition, the petitioner has an appropriate alternative remedy for getting the Non Bailable Warrant recalled before the competent Court/forum.

6. In the given situation, this Criminal Original Petition is devoid of merit and dismissed.

16-04-2024

Index : Yes/No
Internet : Yes/No
dixit

To

State, rep.by
Inspector of Police,
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Tiruvarur.
(Cr.No.1/2021)



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VIVEK KUMAR SINGH, J.

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