



Crl.O.P.(MD) No.3037 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2024

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.3037 of 2024

M.Yathavaraj

...Petitioner

VS

**1.The District Superintendent of Police,
Thoothukudi District,
Thoothukudi.**

**2.The Inspector of Police,
Koppampatti Police Station,
Thoothukudi District.**

3.K.Balakumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the Respondent Nos.1 and 2 to execute the non bailable warrant, which is issued by the Fast Track Court, Uthamapalayam, Theni District dated 20.10.2021 in CC.No.41 of 2020.

For Petitioner : Mr.S.Saravanan

**For R1 & R2 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)**



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ORDER

The learned Counsel for the Petitioner submits that the Petitioner had filed this Petition seeking direction against the Respondent Nos.1 and 2 to execute the non bailable warrant issued in CC.No.41 of 2020 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Uthamapalayam, Theni District dated 20.10.2021.

2.Also, the learned Counsel for the Petitioner submits that the Petitioner is a Complainant in a private complaint filed under Section 138 of Negotiable Instruments Act, 1881. During the pendency of the case, the accused did not appear. Therefore, non bailable warrant was issued on 17.11.2021 against them. Even after the directions from the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Uthamapalayam, Theni District, the second Respondent had not executed the warrant, which is pending from the year 2021.

3.As per the Constitution of the Court, no Police Station are attached to the Special Courts constituted for the cases under 138 of Negotiable



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Instruments Act, 1881. As far as execution of warrant is concerned, it is the duty of the Police, under whose jurisdiction the accused resides. In cases under 138 of Negotiable Instruments Act, it is a private complaint. Therefore, the Complainant cannot be expected to execute the warrant as in a civil case.

4.As per the submission of the learned Government Advocate (Crl.side), the status report had been filed stating that the proof is not available in the village. Therefore, this Court had sought remarks from the learned Principal District Judge, Thoothukudi and the learned Chief Judicial Magistrate, Thoothukudi regarding the pendency of the nonailable warrant cases in the Court of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Uthamapalayam, Theni District. Today (29.02.2024), the remarks had been received.

5.In the light of the above, the Superintendent of Police, Thoothukudi, is directed to give suitable instructions to the SHO of the Police Station concerned regarding the pendency of the nonailable warrant cases. It is to be noted that the learned Judicial Magistrate, Fast Track Court



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(Magisterial Level), is exclusively dealing with the cases under 138 of Negotiable Instruments Act. Therefore, the Police Stations are not attached to the Fast Track Court (Magisterial Level).

6.Under such circumstances, the learned Principal District Judge, Thoothukudi and the learned Chief Judicial Magistrate, Thoothukudi shall take steps to collect details from the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Uthamapalayam, Theni District, so that pending warrants can be executed by the Superintendent of Police through the special team constituted to execute the non bailable warrant, so that the Court work is not affected in disposing of the case. It is found that invariably in many cases warrants are pending. Since the Police Stations are not attached to the Court of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), it is difficult for the Presiding Judge/Judicial Magistrate, exclusively dealing with Negotiable Instruments Act cases to get the cooperation of the Police Officials.

7.In the light of those developments, the learned Principal District Judge, Thoothukudi and the learned Chief Judicial Magistrate, Thoothukudi



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shall convene a meeting with the Superintendent of Police along with Sub Divisional Officers, so that suitable instructions shall be issued for execution of non bailable warrants the special team to be constituted at the sub divisional level throughout the Districts supervising that warrants are executed. The learned Judicial Magistrate is directed that in case when accused is produced on execution of warrant, he/she shall be detained in prison till the trial is completed.

8.Let this papers be placed before the Committee of Judges regarding execution of warrants by the Police in matters concerning Section 138 of Negotiable Instruments Act, 1881, which is a case under private complaint. Invariably, the Police Officers are reluctant to execute the warrants, thereby the learned Trial Judges, Special Courts constituted under 138 Negotiable Instruments Act as Fast Track Court, Magisterial Level, to deal with the cases under Section 138 of Negotiable Instruments Act cases are unable to dispose of the cases as per the words 'Fast Track Court' due to the lack of co-operation by the Police Officers, as the Court lacks jurisdiction as none of the Police Stations are attached to the Special Courts dealing with 138 of Negotiable Instrument Act Cases.



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9.Under those circumstances, circular/directions or any other appropriate orders may be issued to the Police Department through the Office of the Director General of Police, Head of State Police Force, Tamil Nadu, Chennai-4 to execute the warrants in the respective jurisdiction, particularly Section 138 of Negotiable Instruments Act,1881. This may be placed before the Hon'ble Chief Justice of this Court for further consideration by the Committee of Judges dealing with the Courts dealing with the criminal cases and criminal rules of practise.

With the above directions, this Petition is disposed of.

Internet:Yes./No
Index:Yes/No
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29.02.2024

To

1.The District Superintendent of Police,
Thoothukudi District,
Thoothukudi.



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- 2.The Inspector of Police,
Koppampatti Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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