



CrI.O.P.(MD) No.4354 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.4354 of 2024

Nagaraj @ Nagu

...Petitioner

VS

**The Sub Inspector of Police,
Pettai Police Station,
Crime No.435 of 2017**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to direct the learned Principal Subordinate Judge, Tirunelveli to consider the recall warrant Petition filed u/s. 70(2) Cr.P.C. on the same day of its filing in SC.No.634 of 2017 on the file of the Principal Subordinate Judge, Tirunelveli.

For Petitioner : Mr.Michel Heldon Kumar

**For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)**



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ORDER

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The learned Counsel for the Petitioner submits that the Petitioner is the second accused in S.C.No.634 of 2017 pending on the file of the learned Principal Subordinate Judge, Tirunelveli. The learned Principal Subordinate Judge, Tirunelveli had issued non bailable warrant against the Petitioner. On coming to know about the same, the Petitioner filed Cr.M.P.No.136 of 2024 in S.C.No.634 of 2017 under Section 70(2) Cr.P.C. seeking to re-call the warrant. The learned Principal Subordinate Judge, Tirunelveli had initially allowed the petition on 20.02.2024 with a direction to the Petitioner to pay cost of Rs.1,000/-. Since the Petitioner failed to pay cost, the petition was subsequently dismissed on 22.02.2024. Aggrieved by the same, the Petitioner had come before this Court seeking to set aside the order and to grant an opportunity to the Petitioner to pay the cost on the date of his surrender before the learned Principal Subordinate Judge, Tirunelveli.

2.Considering the submission made by the learned Counsel for the Petitioner that the cost was imposed on the Petitioner on 20.02.2024, on which date, he was unable to pay the cost, as he was not having money with



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him. The learned Principal Subordinate Judge, Tirunelveli, is directed to consider the Petitioner's request by granting him sufficient time.

3.This Criminal Original Petition is partly allowed. The order passed by the learned Principal Subordinate Judge, Tirunelveli recalling the warrant is upheld, but not granting time to pay cost alone is set aside. The Petitioner is granted 15 days time to pay the cost. He shall surrender before the Court concerned and co-operate with the pending trial. Since the case is of the year 2017, the learned Judge shall warn the accused that if they do not cooperate with the trial proceedings, the bail granted to the accused and the bail bond executed by the sureties will be cancelled and all the accused will be detained in prison, till the trial concludes. The learned Principal Subordinate Judge, Tirunelveli is directed to act as per the reported ruling of the Hon'ble Supreme Court in the case of ***Vinod Kumar Vs. State of Punjab*** reported in ***CDJ 2015 SC 115*** and conclude the trial within the reasonable period of 3 months from the date of receipt of a copy of this order.

Internet:Yes./No
Index:Yes/No
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20.03.2024

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To

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- 1.The Sub Inspector of Police,
Pettai Police Station.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SATHI KUMAR SUKUMARA KURUP, J.

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