



CrI.O.P.(MD)No.5181 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.04.2024

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

[CrI.O.P.\(MD\)No.5181 of 2024](#)

Sivabalan

Petitioner

Vs.

The State rep by
The Inspector of Police,
Silaiman Town Police Station,
Ramanathapuram District.
(Crime No.298 of 2013)

Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the learned Judicial Magistrate No.II, Madurai to recall the Non Bailable Warrant issued against the petitioner in CC No.264 of 2014, dated 07.04.2022 on the file of the learned Judicial Magistrate No.II, Madurai on the same day of filing petition under Section 70(2) of Cr.P.C.

For Petitioner : Mr.C.Senthil Murugan

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

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Seeking a direction to recall the Non Bailable Warrant issued as against this petitioner in CC No.264 of 2014, dated 07.04.2022 on the file of the learned Judicial Magistrate No.II, Madurai, the petitioner has approached this Court.

2.A criminal case in CC No.264 of 2014 has been registered as against this petitioner for the offence under Sections 279 and 304(A) of IPC. At the time of occurrence, the petitioner was arrested and released on regular bail. Thereafter, he was attending the Court proceedings regularly. However, due to his health issues, he failed to attend the Court proceedings on 07.04.2022 and his counsel also has not filed any petition under Section 317 of Cr.P.C. The case is posted to 12.04.2024. If Non Bailable Warrant issued as against the petitioner is not recalled, he will be prejudiced. Hence, the learned counsel prays this Court to issue a direction to recall the Non Bailable Warrant issued as against this petitioner in CC No.264 of 2014.



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3.Mr.E.Antony Sahaya Prabahar, learned Additional Public

Prosecutor takes notice for the respondent and submits that the petitioner has to approach the concerned Judicial Magistrate by filing a petition under Section 70(2) of Cr.P.C. However, without doing so, the petitioner has straightaway approached this Court. Therefore, this petition is liable to be dismissed.

4. Considering the relief sought for by the petitioner and considering the fact that the petitioner is having a remedy before the concerned Judicial Magistrate by way of filing an application under Section 70(2) of Cr.P.C and it is the prerogative of the concerned Magistrate to take a decision, this Criminal Original Petition is dismissed. It is always open to the petitioner to file an application under Section 70(2) of Cr.P.C before the concerned Judicial Magistrate.

03.04.2024

NCC : Yes/No

Index : Yes/No

Internet:Yes

vrn



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To
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- 1.The Inspector of Police,
Silaiman Town Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

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Order made in
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