



CRL OP(MD). No.9002 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 26.06.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL OP(MD). No.9002 of 2024

Thirupathi

... Petitioner

versus

Umamaheswari

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Additional Mahila Court at Magistrate Level, Karur, to consider the recall warrant petition under Section 70(1) Cr.P.C. on the same day to recall the warrant issued against the petitioner in S.T.C.No.28 of 2023 dated 09.05.2024 and accept the surrender petition filed by his counsel without the physical presence of the petitioner.

For Petitioner : M/s.A.Banumathy

ORDER

The petitioner has moved this petition to recall the Non-Bailable Warrant issued by the Additional Mahila Court @



CRL OP(MD). No.9002 of 2024

Magistrate Level, Karur in STC.No.28 of 2023.

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2. The petitioner herein is the husband of the respondent. An application in STC.No.28 of 2023 appears to have been filed by the respondent herein for execution of the order passed by the trial Court in D.V.C.No.37 of 2020, which was allowed on 08.11.2021 by directing the petitioner herein to pay monthly maintenance of Rs.7,500/- to the respondent. The petitioner challenged the same by way of an appeal before the Principal District Court, Karur, in Crl.A.No.27 of 2022 and thereafter, preferred a revision before this Court in Crl.R.C.(MD)No.971 of 2022 and lost before both the forums. Thereafter, the respondent filed a petition to execute the order passed in D.V.C.No.37 of 2020 and the same is also pending from 30.10.2023, since the petitioner has not paid maintenance amount to the respondent nor appeared before the concerned Court.

3. The learned counsel appearing for the petitioner has attributed some reasons by stating that some Advocates are



CRL OP(MD). No.9002 of 2024

preventing the petitioner from entering into the Court premises and therefore, the petitioner was unable to appear before the Court below.

4. Heard the learned counsel appearing for the petitioner.

5. The petitioner has filed this petition seeking a direction to the learned Judicial Magistrate, Additional Mahila Court, Karur, to consider the recall warrant petition, which appears to be filed by him under Section 70(1) of Cr.P.C. in S.T.C.No.28 of 2023, on the same day and also sought for the relief of recalling the warrant without insisting his physical presence.

6. This Court is unable to accept the contention of the petitioner that he was prevented by a few advocates from attending the court proceedings. The petitioner is contesting the case from the year 2020 before the Judicial Magistrate Court, Principal District Court and also before this Court. Therefore, based on the vague



CRL OP(MD). No.9002 of 2024

allegation, the relief sought for by the petitioner cannot be granted.

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7. The maintenance amount was ordered by the trial Court on 08.11.2021. The petitioner is liable to pay the maintenance amount around Rs.3 lakh. It is not known whether the petitioner is not appearing before the trial Court in order to avoid the proceedings. The petitioner can show his *bona fide* by appearing before the learned Judicial Magistrate, Additional Mahila Court, Karur and filing necessary application to recall the warrant. Therefore, this Court is not inclined to interfere with the discretion of the learned Judicial Magistrate in deciding the application under Section 70(1) of Cr.P.C.

8. Accordingly, this Criminal Original Petition is dismissed.

26.06.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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CRL OP(MD). No.9002 of 2024

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1. The Additional Mahila Court
at Magistrate Level,
Karur.



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CRL OP(MD). No.9002 of 2024

B.PUGALENDHI, J.

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Crl.O.P.(MD)No.9002 of 2024

26.06.2024