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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.09.2024

Pronounced on : 19.10.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.9138 of 2024
and
Crl.M.P.(MD)No.6890 of 2024

K.Abirami ... Petitioner

Vs.

1.Kumar

2.The Inspector of Police,
Karur Town Police Station,
Karur District. ... Respondents

Prayer : This Criminal Original Petition filed under Section 482 Cr.P.C., to direct the second respondent to execute the non-bailable warrant (NBW) as against the first respondent as per the order dated 13.07.2023 in S.T.C.No.07 of 2023 on the file of Judicial Magistrate, Additional Mahila Court, Karur within the stipulated period as may fixed by this Court.

For Petitioner : Mr.R.Sakthivel

For R2 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

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ORDER

The Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking direction to the second respondent to execute the Non-Bailable Warrant issued as against the first respondent as per the order dated 13.07.2023 in S.T.C.No.7 of 2023 on the file of the Judicial Magistrate, Additional Mahila Court, Karur, within a time stipulated by this Court.

2. It is evident from the records that the petitioner has filed a petition under Sections 18, 19, 20 and 22 of the Domestic Violence Act against her husband and in-laws invoking Section 12 of Protection of the Women from Domestic Violence Act, 2005 and the case was taken on file in D.V.C.No.48 of 2021 on the file of the Additional Mahila Court, Karur, that the petitioner has also filed an application claiming interim maintenance in Cr.M.P.No.1546 of 2022, that the learned Judicial Magistrate, after enquiry, has passed an order dated 21.12.2022 directing the first respondent to pay interim monthly maintenance of Rs.10,000/- to the petitioner and her son, that the said Court has also ordered to pay the arrears of maintenance for the period from 01.09.2021 to 21.12.2022

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within one month from the date of that order, that since the first respondent has not complied with the direction and purposely evaded to pay maintenance, the petitioner was forced to file an application under Section 31 of the Domestic Violence Act and the same was taken on file in S.T.C.No.7 of 2023, that since the first respondent having received the Court summons has refused to attend the Court, Non-Bailable Warrant was ordered to be issued on 19.06.2023, that despite issuance of warrant, the second respondent has not taken any steps to execute the same and that therefore the petitioner is constrained to approach this Court.

3. It is further evident from the records that despite receipt of Court summons, the first respondent has failed to appear before the Court and hence, Non-Bailable was ordered to be issued on 19.06.2023, that the learned Judicial Magistrate has directed the Karur Town Police to execute the Non-Bailable Warrant vide order dated 13.07.2023 and that since Non-Bailable Warrant was not executed by the said police, the learned Judicial Magistrate has then directed the Pasupathipalayam Police to execute the warrant.

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4. At this juncture, it is necessary to refer the recent order passed by this Court in Crl.O.P.(MD)No.14120 of 2024 dated 28.08.2024 and the relevant passages are extracted hereunder:-

> *"5. Now-a-days, it is very shocking to notice that the police authorities are not giving due importance to the Non-Bailable Warrants issued in private complaint cases such as the complaints under Section 138 of the Negotiable Instruments Act, petitions under Section 125 Cr.P.C., for maintenance etc., and they are attempting to disown their responsibility by making distinction between the warrants issued in police cases and private complaint cases. Since the Non-Bailable Warrants are being issued by the competent criminal Courts, the police authorities are having absolutely no right to make such a distinction between the warrants and are duty bound to execute the same.*
>
> *6. Unfortunately, it is a common issue in many matrimonial cases that women and minor children face significant delays and challenges in receiving the maintenance amount awarded to them, even after warrants have been issued against the respondents. This can lead to financial hardship and uncertainity for the vulnerable parties. In case of non-execution of Non Bailable Warrants issued by the Courts, the Courts should invoke the*

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provisions under Section 166 I.P.C. (Section 198 B.N.S.), and initiate proceedings under Section 210(1)(c) of B.N.S. and that would be the best answer for the current situation of having thousands of warrants pending for execution."

5. In the present case, as already pointed out, the petitioner has already obtained interim orders for payment of maintenance and since the same was not complied with, she has invoked Section 31 of the Domestic Violence Act and in that proceedings, obtained orders for issuance of Non-Bailable Warrant against the first respondent.

6. When the matter was taken up for hearing earlier, the then Portfolio Judge has called for a report from the Judicial Magistrate, Additional Mahila Court, Karur and in pursuance of the same, the learned Magistrate has submitted a report dated 06.07.2024, wherein, it has been stated that the Karur Town Police was directed to execute the warrant on 13.07.2023 and in pursuance of the same, warrant was despatched to the Inspector of Police, Town Police Station, Karur through Head Constable and that since the warrant was not returned, Pasupathipalayam Police was directed to execute the Non-Bailable Warrant vide order dated 18.03.2024.

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7. The second respondent has filed a special report stating that the Police team had visited Perambalur District where the first respondent's mother was residing, that they had collected CDR particulars with regard to the cell phone numbers of the first respondent and found that both the numbers were not in use, that they have deputed police to secure the first respondent and that they will produce the first respondent after executing the warrant at an earlier date.

8. Recording the report submitted by the second respondent, the second respondent is directed to execute the Non-Bailable Warrant pending against the first respondent as early as possible and to produce him before the Additional Mahila Court, Karur.

9. With the above direction, this Criminal Original Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed.

19.10.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
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To

1.The Judicial Magistrate,
Additional Mahila Court,
Karur.

2.The Inspector of Police,
Karur Town Police Station,
Karur District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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Pre-Delivery Order made in
Crl.O.P.(MD)No.9138 of 2024
and
Crl.M.P.(MD)No.6890 of 2024

Dated : 19.10.2024

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