



Crl.R.C.(MD)No.677 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.677 of 2024

Mayavanathan

... Petitioner/2nd Petitioner/A2/A2

Vs.

State represented by its
The Inspector of Police,
Kadayam Police Station,
Kadayam,
Tenkasi District.

... Respondent/Respondent/
Complainant/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 (438 BNSS) r/w 442 of Cr.P.C., to call for the records relating to the order passed in Cr.M.P.No.593 of 2024 dated 13.06.2024 in Crime No.350 of 2019 in C.C.No. 563 of 2024, on the file of Judicial Magistrate Court, Tenkasi and set aside the same and further direct the learned Judicial Magistrate Court, Tenkasi to recall the non-bailable warrant without insisting petitioner's presence before the Court by allowing this criminal revision petition.

For Petitioner : Mr.V.S.Kishok Kumar

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

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ORDER

The Criminal Revision Case has been filed to call for the records relating to the order passed in Cr.M.P.No.593 of 2024 dated 13.06.2024 in Crime No.350 of 2019 in C.C.No.563 of 2024, on the file of Judicial Magistrate Court, Tenkasi and set aside the same and further direct the learned Judicial Magistrate Court, Tenkasi to recall the non-bailable warrant without insisting petitioner's presence before the Court by allowing this criminal revision petition.

2. The petitioner is the accused in C.C.No.563 of 2024 on the file of the learned Judicial Magistrate Court, Tenkasi and said to have committed offence under Sections 294(b), 406, 420, 506(i) and 201 of IPC. Originally the case was taken on file in C.C.No.230 of 2021 on the file of the learned Judicial Magistrate, Ambasamudram, and due to the administration ground, the case was transferred to the learned Judicial Magistrate, Tenkasi and renumbered as C.C.No.593 of 2024. Thereafter, summon was issued to the petitioner for his appearance, the petitioner did not appear and therefore, the learned Judicial Magistrate, Tenkasi has issued NBW against the petitioner.



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3.The learned counsel for the petitioner submitted that the petitioner has filed Crl.O.P(MD).No.10730 of 2022 before this Court seeking quashment of C.C.No.230 of 2021 on the file of the learned Judicial Magistrate, Ambasamudram. This Court vide order dated 14.03.2024 dismissed the above petition and dispensed with the personal appearance of the petitioner before the trial Court. Therefore, the petitioner did not appear before the trial Court, without knowing the above said order, the learned Judicial Magistrate, Tenkasi issued the NBW against the petitioner. Thereafter, the petitioner has filed Cr.M.P.No.4022 of 2024 in C.C.No.563 of 2024 to recall the warrant issued against him and the same was dismissed on 13.06.2024. Challenging the same, the present Criminal Revision Case has been field.

4.Heard the learned Government Advocate (Crl.Side) appearing for the respondent police and also perused the materials available on record.

5.This Court in Crl.O.P(MD).No.10730 of 2022 dated 14.03.2024, dispensed with the personal appearance of the petitioner before the trial Court by passing the following order:



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8. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days. The learned Judicial Magistrate, Ambasamudram, is directed to dispose of C.C.No. 230 of 2021 within a period of six months from the date of receipt of a copy of this order. Connected miscellaneous petitions are closed.

6. Therefore, the petitioner did not appear before the trial Court. The order of this Court has not been brought to consideration of the learned Judicial Magistrate, Tenkasi. Therefore, he issued the NBW against the petitioner, which is not a sustainable one.

7. In view of the above, this Criminal Revision Case is allowed and NBW issued against the petitioner by the learned Judicial Magistrate, Tenkasi is set aside and the petitioner is directed to appear before the Court below **on 14.08.2024** and to file an undertaking affidavit stating that he would appear on



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further hearing dates without fail, as per the order of this Court. If any such failure, the learned trial Judge is liberty to take action against him as per law.

15.07.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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To

- 1.The learned Judicial Magistrate Court, Tenkasi.
- 2.The Inspector of Police,
Kadayam Police Station,
Kadayam,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

RJR

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