



CrI.O.P.No.19888 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 16.07.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.19888 of 2025

S.P.Sivakumar

... Petitioner

Vs.

1. The Commissioner of Police
No.132, E.V.K.Sampath Road
Vepery, Chennai - 600 007
2. The Deputy Commissioner of Police
E.V.R. Periyar Salai, Kilpauk
Chennai - 600 010
3. The Inspector of Police
K-2 Ayanavaram Police Station
Medavakkam Tank Road
Chennai - 600 010

4. K.V.Balamurugan

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S., to
direct the third respondent police to execute the nonailable warrant against
1/10



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the accused No.3/fourth respondent dated 10.06.2025 on the file of V Metropolitan Magistrate, Egmore, Chennai in C.C.No.926 of 2025 on stipulated time.

For Petitioner : Mr.Periaswamy I

For Respondents 1 to 3 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed by the petitioner to direct the third respondent police to execute the non bailable warrant against the accused No.3/4th respondent dated 10.06.2025 on the file of V Metropolitan Magistrate, Egmore, Chennai in C.C.No.926 of 2025 on stipulated time.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondents 1 to 3 and also perused the materials available on record.

3. It is seen that though the non bailable warrant was issued against the third respondent on 13.08.2024, till date the respondent police is not able to

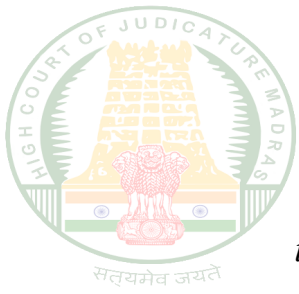


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execute the warrant. The trial Court and the police are adopting the procedure which is unknown to law. If any Non bailable Warrant is issued, the police has to secure the accused unless the accused himself surrenders before the Magistrate concerned. In case if the police is not able to execute the warrant within a stipulated period, it is the duty of the Investigating Officer to return the warrant to the Magistrate by filing a memo. Instead of securing the accused or returning the warrant, the Police officials are keeping the warrants pending for years together for the reasons best known to them and the Magistrates also are recording in the adjudication order that Non Bailable Warrant is pending.

4. It is pertinent to state that the Hon'ble Supreme Court in the case of ***Raghuvansh Dewanchand Bhasin Vs. State of Maharashtra and Anr ((2012) 9 SCC 791) [CrI.A.No.1758 of 2011]*** had issued certain guidelines on issuance of Non-Bailable Warrant. The relevant portion of the judgment is extracted hereunder :-

" 28. However, before parting with the judgment, we feel



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that in order to prevent such a paradoxical situation, we are faced with in the instant case, and to check or obviate the possibility of misuse of an arrest warrant, in addition to the statutory and constitutional requirements to which reference has been made above, it would be appropriate to issue the following guidelines to be adopted in all cases where non-bailable warrants are issued by the courts:

28.1. All the High Court shall ensure that the subordinate courts use printed and machine numbered Form 2 for issuing warrant of arrest and each such form is duly accounted for;

28.2. Before authenticating, the court must ensure that complete particulars of the case are mentioned on the warrant;

28.3. The presiding Judge of the Court (or responsible officer specially authorised for the purpose in case of High Courts) issuing the warrant should put his full and legible signatures on the process, also ensuring that Court seal bearing complete particulars of the Court is prominently endorsed thereon;

28.4. The court must ensure that warrant is directed to a particular police officer (or authority) and, unless intended to be open-ended, it must be returnable whether executed or unexecuted, on or before the date specified therein;

28.5. Every court must maintain a register (in the format given below at p. 804), in which each warrant of arrest issued must be entered chronologically and the serial number of such entry reflected on the top right hand of the process;



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28.6. *No warrant of arrest shall be issued without being entered in the register mentioned above and the court concerned shall periodically check/monitor the same to confirm that every such process is always returned to the court with due report and placed on the record of the case concerned;*

28.7. *A register similar to the one in para 28.5 supra shall be maintained at the police station concerned. The Station House Officer of the police station concerned shall ensure that each warrant of arrest issued by the court, when received is duly entered in the said register and is formally entrusted to a responsible officer for execution;*

28.8. *Ordinarily, the courts should not give a long time for return or execution of warrants, as experience has shown that warrants are prone to misuse if they remain in control of executing agencies for long;*

28.9. *On the date fixed for the return of the warrant, the court must insist upon a compliance report on the action taken thereon by the Station House Officer of the police station concerned or the officer in charge of the agency concerned;*

28.10. *The report on such warrants must be clear, cogent and legible and duly forwarded by a superior police officer, so as to facilitate fixing of responsibility in case of misuse;*

28.11. *In the event of warrant for execution beyond jurisdiction of the court issuing it, procedure laid down in Sections 78 and 79 of the Code must be strictly and scrupulously followed; and*



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28.12. In the event of cancellation of the arrest warrant by the court, the order cancelling warrant shall be recorded in the case file and the register maintained. A copy thereof shall be sent to the authority concerned, requiring the process to be returned unexecuted forthwith. The date of receipt of the unexecuted warrant will be entered in the aforesaid registers. A copy of such order shall also be supplied to the accused.

Format of the Register

S.No	The number printed on the form used	Case title and particulars	Name & Particulars of the person against whom warrant of arrest is issued (accused/witness)	The Officer/Person to whom directed	Date of judicial order directing Arrest Warrant to be issued	Date of issue	Date of Cancellation if any	Due date of return	Report returned on	The action taken as reported	Remarks

29. We expect and hope that all the High Courts will issue appropriate directions in this behalf to the subordinate courts, which shall endeavour to put into practise the aforesaid directions at the earliest, preferably within six months from today."

5. In compliance of the directions of the Hon'ble Supreme Court, this



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Court *vide* letter in T & PSC.No.3393/2011, dated 02.11.2011 issued certain

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guidelines to all the subordinate Courts for strict compliance of the directions issued by the Hon'ble Supreme Court in CrI.A.No.1758 of 2011. In the year 2018, this Court had noticed that, there are some deviations in adhering the directions issued by this Court *vide* letter in T & PSC.No.3393/2011 dated 02.11.2011, by some of the judicial officers. Therefore, this Court *vide* R.O.C.No.72661-A/2018/F1, dated 02.11.2018, re-issued the circular for strict compliance of the directions issued by the Hon'ble Supreme Court in CrI.A.No.1758 of 2011, by the Judicial Officers.

6. In the instant case, the Non-Bailable Warrant, which was issued by the Court below is still pending for a long time.

7. It is needless to state that the Police authority did not follow the guidelines issued by the Hon'ble Supreme Court followed by the circulars issued by this Court cited *supra*.

8. If at all the first respondent-Police is not in a position to execute the



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warrant, they should have returned the warrant on or before the date specified

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therein along with a report to the trial Court setting out the reason for non-execution, which has not been done in the instant case. Therefore, the third respondent-Police is directed to return the Non Bailable Warrant issued by the trial Court along with a report to the trial Court as per the dictum of the Hon'ble Supreme Court followed by circulars of this Court and obtain a fresh NBW, if necessary.

9. With the above observations and directions, this Criminal Original Petition is **disposed of**.

16.07.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The V Metropolitan Magistrate,
Egmore, Chennai

2. The Commissioner of Police
No.132, E.V.K.Sampath Road
Vepery, Chennai - 600 007

3. The Deputy Commissioner of Police
E.V.R. Periyar Salai, Kilpauk
Chennai - 600 010

4. The Inspector of Police
K-2 Ayanavaram Police Station
Medavakkam Tank Road
Chennai - 600 010

5. The Public Prosecutor
High Court of Madras, Chennai.



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P.VELMURUGAN,J.

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