



Crl.O.P.No.20414 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No. 20414 of 2025

M.Kokila

... Petitioner

Vs.

1. The Inspector of Police,
East Police Station,
Tiruvannamalai Town & District.

2. R.Murali Mohan

... Respondents

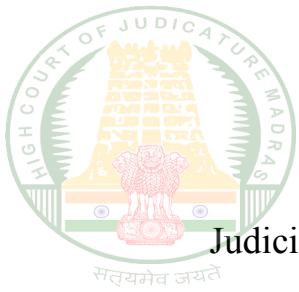
Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to direct the 1st respondent/Police to execute the NBW issued by the Judicial Magistrate, Fast Track Court (M.L.) Tiruvannamalai pending from 24.05.2024 within the stipulated time.

For Petitioner : Mr.R.Mohan

For Respondents : Dr.C.E.Pratap
Government Advocate (Crl.Side)
for R1

ORDER

The Criminal Original Petition is filed seeking a direction to the 1st respondent/Police to execute the Non Bailable Warrant issued by the



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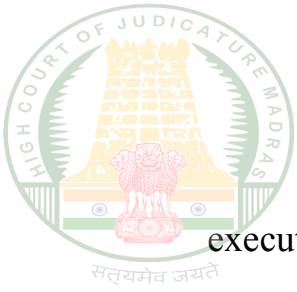
Judicial Magistrate, Fast Track Court (Magistrate Level),

WEB CO T Tiruvannamalai on 24.05.2024, within a stipulated time that may be fixed by this Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

3. Since no adverse order is passed as against the second respondent, notice to the second respondent is hereby dispensed with.

4. According to the petitioner/complainant, he had filed a complaint invoking Sections 138 and 142 of the Negotiable Instruments Act against the accused/second respondent herein in S.T.C.No.2 of 2023 before the Judicial Magistrate, Fast Track Court (M.L) Tiruvannamalai. Since summons could not be served on the accused/second respondent herein, the trial Court issued aailable warrant on 10.08.2023. Since the first respondent-Police had not executed the warrant for more than 8 months, the trial Court had issued a Nonailable Warrant on 24.05.2024 against the second respondent herein and the same has also not been



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executed by the first respondent-Police till date. Hence the present petition.

5. Learned Government Advocate (Crl.Side) appearing for the first respondent-Police, on instructions, submitted that the accused/second respondent herein is not residing in the address mentioned in the summary trial case, for the past three years and that they are not in a position to execute the warrant dated 24.05.2024.

6. The Hon'ble Supreme Court in the case of ***Raghuvansh Dewanchand Bhasin Vs. State of Maharashtra and Anr ((2012) 9 SCC 791) [Crl.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 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



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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;

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

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

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

29. We expect and hope that all the High Courts will issue appropriate directions in this behalf to the



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subordinate courts, which shall endeavour to put into practise the aforesaid directions at the earliest, preferably within six months from today."

7. In compliance of the directions of the Hon'ble Supreme Court, this Court *vide* letter in T & PSC.No.3393/2011, dated 02.11.2011 issued certain 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.

8. In the instant case, the Non-Bailable Warrant, which was issued by the Court below on 24.05.2024 is still pending.

9. 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*. It is the contention of the prosecution

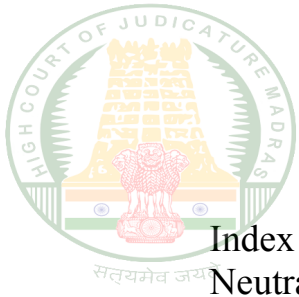


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that the whereabouts of the accused remains non traceable and that the first respondent-Police is not in a position to execute the Non-Bailable Warrant dated 24.05.2024. If at all the first respondent-Police is not in a position to execute the warrant, they should have returned the warrant on or before the date specified 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 first respondent-Police is directed to return the Non Bailable Warrant dated 24.05.2024 along with the report to the trial Court as per the dictum of the Hon'ble Supreme Court followed by circulars of this Court.

10. In view of the foregoing discussions, no directions can be issued as sought for by the petitioner. Accordingly, the Criminal Original Petition is dismissed. However, in case the petitioner is able to find out the whereabouts of the accused, he is at liberty to inform the same before the first respondent-Police and the first respondent Police, in turn, shall take necessary steps to obtain fresh Non Bailable Warrant and secure the accused.

21.07.2025



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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Judicial Magistrate,
Fast Track Court (M.L.),
Tiruvannamalai.
2. The Inspector of Police,
East Police Station,
Tiruvannamalai Town & District.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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