



Crl.R.C.(MD)No.1106 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.1106 of 2025

Mohamed Siddiq

... Petitioner

Vs.

The Inspector of Police,
Bodinaickanur Town Police Station,
Theni.
Crime No.350 of 2014.

... Respondent

PRAYER : Criminal Revision Case filed under Section 438 r/w 442 B.N.S.S., to call for the records pertaining to the order passed by the learned Judicial Magistrate, Uthamapalayam in M.P.No.2 of 2025 in C.C.No.360 of 2020, dated 31.07.2025 and set aside the same by allowing the above Criminal Revision Petition.

For Petitioner : Mr.K.K.Samy

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

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This Criminal Revision Case is filed challenging the order passed by the learned Judicial Magistrate, Uthamapalayam in M.P.No.2 of 2025 in C.C.No.360 of 2020, dated 31.07.2025.

2. The petitioner is the accused in C.C.No.360 of 2020 on the file of the learned Judicial Magistrate, Uthamapalayam. The petitioner filed an application under Section 70(2) of the Code of Criminal Procedure / 72 BNSS, 2023, seeking to recall the Non-Bailable Warrant issued against him. However, on perusal of the records, the learned trial Court dismissed the said application by the impugned order, dated 31.07.2025. Challenging the said order, this Criminal Revision Case is filed.

3. The learned counsel for the petitioner submitted that the petitioner was not able to appear before the learned trial Court on 21.02.2025, on which date, the Non-Bailable-Warrant was issued as against him. It is stated that on the very same day, the petitioner had appeared before the learned Special Court for Exclusive Trial of SC/ST Act Cases, Theni, in connection with another case and was heldup in that



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Court for the whole day, as a result of which, he was able to appear before the learned trial Court at Uthamapalayam. He further submitted that the absence of the petitioner on 21.02.2025 was neither willful nor wanton. Substantiating the same, the petitioner had filed an application before the learned trial Court, seeking to recall of the Non Bailable Warrant issued against him. When the matter came up for hearing on 31.07.2025, the petitioner was not able to appear before the learned trial Court due to the fractures, which he suffered in his right hand and his Advocate duly appeared before the learned trial Court and pressed for recalling the Non Bailable Warrant. Such an exercise is permissible in the light of the order passed by this Court in Crl.O.P(MD) No.6556 of 2022, dated 23.03.2022.

4. That apart, the learned trial Court also failed to consider the medical records and the photographs that were produced by the petitioner and on that premise, the learned counsel prayed for allowing the present Criminal Revision Case.



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5. The learned Additional Public Prosecutor, Mr.S.Ravi, categorically contended that the application is not at all permissible for the reason that the petitioner did not approach this Court with clean hands. This Court, in Crl.O.P(MD) No.4459 of 2025, by order dated 11.03.2025, considered a Criminal Original Petition filed by the petitioner seeking to recall the warrant issued in C.C.No.360 of 2020 on 21.02.2025. By the said order, this Court directed the petitioner to appear before the learned trial Court and file an appropriate application seeking cancellation of the non-bailable warrant issued against him. The learned trial Court was specifically directed to consider the application on the same day, on its merits, and in accordance with law.

6. However, despite the specific direction issued by this Court that the petitioner should appear before the trial Court and file an appropriate application, the petitioner, without appearing before the learned trial Court, had insisted to recall the warrant and only on that premise, the learned trial Court had refused to allow his application promptly extracting the portion of order passed by this Court in Crl.O.P(MD) No. 4459 of 2025, where the presence of the petitioner was insisted.



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7. It was also pointed out by the learned Additional Public Prosecutor that the petitioner did not place any medical records to prove that he was unwell on 31.07.2025. Further he submitted that the conduct of the petitioner would make it clear that the mandates of the case in Crl.O.P(MD) No.6556 of 2022 will not cover the present case, since the order passed by this Court in Crl.O.P(MD) No.4459 of 2025 is staring at him. Hence, he pressed for dismissal of the Criminal Revision Case.

8. The learned Additional Public Prosecutor also submitted that the case was of the year 2014 and he had successfully managed to keep the trial pending by making several applications to transfer the case from various Courts. At the earlier instance, the case was transferred. Originally the case was taken on file by the learned Judicial Magistrate, Bodinayakkanur. Later, the same was transferred to Judicial Magistrate Court, Andipatti. Thereafter, it was further transferred to Judicial Magistrate, Uthamapalayam and the petitioner had caused a lot of delay in conducting the said case after the transfer of the case before the learned Judicial Magistrate, Uthamapalayam. Further, he had not appeared before the learned trial Court even for a single hearing.



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9. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and carefully perused the materials available on record.

10. No doubt that this Court had directed the petitioner in CrI.O.P(MD) No.4459 of 2025, to appear before the learned trial Court by filing an suitable application for recall of Non Bailable Warrant. Despite the same, the petitioner had met with an accident and had suffered fractures in his right hand and had made an application for recall of Non Bailable Warrant without appearing before the learned trial Court.

11. The learned trial Court, after elaborately recording the fact that the petitioner had managed to drag on the trial proceedings for almost eleven years and also citing the order passed by this Court in CrI.O.P. (MD) No.4459 of 2025 and that no document has been submitted to show that the petitioner was immobilized, had rightly dismissed the application of the petitioner.



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12. It is also pointed out by the learned counsel for the petitioner that the Non Bailable Warrant came to be issued by the learned trial Court on 21.02.2025 for his absence before the learned trial Court. The absence was only because of the fact that he had appeared before the Special Court for Exclusive Trial of Cases under SC/ST Act, Theni, in connection with the case in Spl.S.C.No.43 of 2022.

13. Taking into consideration that the petitioner is the senior citizen and the fact that bail is the rule and jail is an exception, this Court sets aside the impugned order, directs the petitioner to appear before the learned Judicial Magistrate, Uthamapalayam, and file an application for recall of warrant without making any request to dispense his appearance. Further learned Judicial Magistrate, Uthamapalayam, is directed to pass appropriate orders in accordance with the law.

14. Further, this Court makes it clear that the petitioner should appear on every hearing before the learned trial Court. In any event, if the petitioner is unable to appear before the Court on any hearing due to medical reasons, he shall produce the necessary medical documents to



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substantiate the same. The trial Court is directed to conclude the trial of the case in C.C.No.360 of 2020, on a day-to-day basis within a period of two months from the date of receipt of copy of this order. If the petitioner is trying to delay the trial in any way without appearing, the trial Court is at liberty to issue a Non-Bailable-Warrant. Accordingly, this Criminal Revision Case is disposed of.

20.08.2025

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To

- 1.The Inspector of Police,
Bodinaickanur Town Police Station,
Theni.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI,J.

Indu

Order made in
Crl.R.C.(MD)No.1106 of 2025

Dated: 20.08.2025