



**CRL OP(MD). No.17599 of 2025**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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Dated : 14.11.2025

**CORAM**

**THE HONOURABLE MR. JUSTICE SUNDER MOHAN**

**CRL OP(MD). No.17599 of 2025**

**and**

**CrI.M.P.(MD)No.14336 of 2025**

Madasamy

... Petitioner

**Vs.**

Sumathy

... Respondent

**PRAYER :-** This Petition is filed under Section 528 BNSS, to set aside the docket order which was passed in CrI.M.P. No. 5291 of 2022 in M.C. No. 15 of 2014 dated 22.08.2025 by the District Munsif cum Judicial Magistrate, Shencottah wherein a non-bailable warrant was passed against the petitioner.

For Petitioner : Mr.V.Kishore Kumar

For Respondent : No appearance

**ORDER**

The petition is filed to set aside the docket order issued by the District Munsif cum Judicial Magistrate, Shencottah, in CrI.M.P. No. 5291 of 2022 in M.C. No. 15 of 2014 dated 22.08.2025, by which a Non bailable warrant was issued against the petitioner.



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2. The learned counsel for the petitioner would submit that the learned Magistrate is not empowered to issue a non bailable warrant in the proceedings under the Domestic Violence Act, unless, there is a violation of the protection order and he relied upon the judgment of the Hon'ble Supreme Court in Transfer Petition (Criminal) No.856 of 2024 and sought for setting aside the impugned order.

3. Though notice has been served and the name was also printed in the cause list, no one has entered appearance.

4. It is seen that the learned Magistrate has passed an order in M.C.No.15 of 2014, directing the respondent therein (petitioner herein) to pay maintenance. The petitioner had not complied with the order and hence Crl.M.P.No.5291 of 2022 has been filed for execution of the maintenance order. The learned Magistrate had issued a Non Bailable Warrant, since the petitioner did not appear on the notice issued by the learned Magistrate. The Hon'ble Supreme Court in Transfer Petition (Criminal) No.856 of 2024 dated 03.01.2025 has observed as follows:

*“This Court is constrained to observe that there is no justification whatsoever for the Trial Court to have issued*



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*bailable warrants in an application filed under the provisions of the D.V. Act. The proceedings under the D.V. Act are quasi criminal proceedings which do not have any penal consequence except where there is a violation or breach of a protection order. Therefore, the learned Magistrate was absolutely unjustified in directing issuance of bailable warrants against the petitioner.”*

5. The above observation squarely applies to the facts of this case.

However, the petitioner is bound to appear before the learned Magistrate and cannot evade the summons. Hence, this court is inclined to recall the warrant on the condition that the petitioner should appear before the learned Magistrate on the next hearing date in Crl.M.P.No.5291 of 2025. If the petitioner fails to comply with the said condition, the order passed by this Court would stand vacated without reference to the Court.

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

**14.11.2025**

Index : Yes / No  
Internet : Yes/ No  
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**SUNDER MOHAN,J**

LS

TO

1. The District Munsif cum Judicial Magistrate,  
Shencottah.
2. The Section Officer,  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.

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