



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12/02/2026

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THE HONOURABLE MRS. JUSTICE L. VICTORIA GOWRI

CRL OP(MD)No.2890 of 2026

Dineshkumar

... Petitioner/Accused No.4

Vs

State of Tamilnadu Rep by,
The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District,
Crime No.106/2018.

... Respondent

PRAYER :-

To direct the Judicial Magistrate Court, Sathankulam, to accept the surrender of the petitioner and consider his petition filed U/s.70(2) of Cr.P.C to recall the Non Bailable Warrant issued on 02.04.2025 in SC.No.155/2022 and consider the same on the day itself.

For Petitioner : Mr.S.Kasirajan,
Advocate.

For Respondent : M.Sakthi Kumar,
Government Advocate (Crl.Side)



ORDER PROLOGUE

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PROLOGUE

The criminal process is not merely a mechanism for securing convictions, but a constitutional instrument for balancing the competing imperatives of societal order, victim justice, and individual liberty. While the presence of an accused before the trial Court is indispensable for the orderly progress of criminal proceedings, coercive processes such as Non-Bailable Warrants are not intended to operate as punitive tools, divorced from the realities of human conduct and procedural contingencies.

2. Equally, the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 CrPC) is extraordinary in nature and cannot be permitted to supplant or short-circuit the statutory remedies expressly provided before the trial Courts. An overzealous invocation of such jurisdiction in matters relating to recall of warrants would not only erode the authority of trial Courts but would also impede the expeditious disposal of criminal cases, thereby frustrating the mandate of Article 21 of the Constitution of India.



3. It is in the above constitutional and statutory backdrop that the present Criminal Original Petition, seeking a direction relating to recall of a Non-Bailable Warrant, falls for consideration.

GIST OF THE CASES & RELIEF SOUGHT

4. Gist of the Case:

A case in Crime No.106 of 2018 has been registered against the petitioner for the offences under Sections 147, 148, 341, 294(b), 302, 506(2), 120(B), 149 of IPC, 1860, which culminated in charge sheet in SC.No.155 of 2022 before the learned I Additional District Judge, Thoothukudi.

5. Relief Sought:

To recall the warrant issued against the petitioner by setting aside warrant dated 02.04.2025, issued by the learned I Additional District Judge, Thoothukudi, in SC.No.155 of 2022.



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6. Grounds urged by the petitioner:

The petitioner has been regularly attending the court. However, he has no awareness about the case coming to be listed on 02.04.2025. Hence, he could not attend the Court for the hearing, and therefore, the warrant was issued against him.

Submissions:

7. The learned counsels for the petitioner relying upon the judgment of this Court in Crl.O.P.No.6472 of 2025 dated 07.03.2025, Crl.O.P.No.4514 of 2016 dated 02.03.2016 and similar orders, submitted that, this Court has appreciated similar cases and had allowed the same by directing the petitioner to appear before the learned trial Court and file a petition under section 70(2) of Cr.P.C,1973/ 72(2) of BNSS,2023, to recall NBW already issued against him and on filing the same the trial court has further been directed to consider the same on its own merits in accordance with law on the same day, making it clear that the disposal of the case in that manner by this Court do not amount to consider the recall petition favourably. Citing the same, the learned counsel for the

4/9



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petitioner sought for a similar order seeking disposition of the case in a similar manner.

8. Per contra, the learned Government Advocate (Crl.Side) categorically contended that this Court cannot invoke section 482/528 Cr.P.C/BNSS in warrant recall matters and insisted that the petitioner's remedy lies with the trial Court and on rejection by the Trial Court, before revision jurisdiction either before the sessions Court or this Court. He further submitted that this matter is already settled by this Court by Hon'ble Justice Janarthanam, J. in *P.A.Saleem and others vs State another*¹ and pointed out that the said case was not brought to the attention of this Court, during disposal of Crl.O.P.No.6472 of 2025 dated 07.03.2025, Crl.O.P.No.4514 of 2016 dated 02.03.2016 and similar orders, by this Court and pressed for dismissal of the cases.

POINT FOR CONSIDERATION

9. Whether this Court can, in exercise of its inherent jurisdiction under Section 482 CrPC / Section 528 BNSS, directly interfere with or

1 1994 SCC OnLine Mad 860



recall Non-Bailable Warrants issued by the trial Courts, or issue directions dispensing with personal appearance, in the teeth of the statutory remedy available before the very Court which issued the warrant, and in light of the law laid down in ***P.A. Saleem***².

ANALYSIS

10. The legal position governing recall of warrants is no longer *res integra*. A Division Bench of this Court in ***P.A. Saleem***³ has authoritatively examined the scheme of the Code of Criminal Procedure relating to issuance, execution and cancellation of warrants. The Court has categorically held that a warrant issued under Section 70 CrPC remains in force until it is executed or cancelled by the Court which issued it, and that the proper and primary remedy of an aggrieved accused is to approach that very Court with an application for cancellation or recall.

11. The judgment further clarifies that a refusal to cancel a warrant constitutes a final order amenable to revision under Sections 397 or 401

² Footnote 1 supra

³ Footnote 1 supra



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CrPC, and that the inherent jurisdiction under Section 482 CrPC cannot be invoked for a simpliciter recall of a warrant. The inherent power is not a substitute for statutory remedies, nor can it be employed to short-circuit the procedural hierarchy envisaged by law.

12. However, the learned Government Advocate (Crl.Side) on instructions submitted that the petitioner is a History Sheeter of A+ category and several murder cases are pending against him. Non-bailable warrant also issued against him. Hence, he prayed for dismissal of this petition.

13. In view of the above submission made by the the learned Government Advocate (Crl.Side), the petitioner is being a wanted accused in connection with an offence of murder, has not approached this Court with clean hands and he is evading the due process of law and has failed to submit himself to the jurisdiction of the Investigating Agency.

14. It is well settled that a person who is absconding or evading arrest is not entitled to invoke the discretionary jurisdiction of this



Hon'ble Court under Section 482 Cr.P.C. The inherent powers of this Court cannot be exercised in favour of such a petitioner.

15. In view of the binding dictum laid down in ***P.A. Saleem***⁵ and the Common Judgment of this Court in CrI.O.P.(MD) Nos.21580, 22630, 22033 & 22808 of 2025, this Criminal Original Petition is not maintainable for the relief sought. Accordingly, this Criminal Original Petition is dismissed, as the cases pertains to an offence of murder and the petitioner is a wanted accused.

12.02.2026

Index : yes /no
Internet : yes / no
dss

To

1. The Judicial Magistrate Court,
Sathankulam.
2. The Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

⁵ Footnote 1 supra



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L. VICTORIA GOWRI, J

dss

ORDER
IN
CRL OP(MD) No.2890 of 2026

Date : 12/02/2026