



Crl.O.P(MD)No.4175 of 2026

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P(MD)No.4175 of 2026

T.S.Sam Dhas

... Petitioner/A1

Vs.

The State of Tamilnadu,
Rep.by The Inspector of Police,
Thermalnagar,
Thoothukudi District.

... Respondent/Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to directing the Learned Judicial Magistrate No.III, Thoothukudi to recall the Non- Bailable Warrant dated 19/02/2026 pending against the petitioner in STC.No.279 of 2024 filed under Section 31 of the protection of Women form Domestic Violence Act, 2005 and consequently, permit the petitioner to appear on the next hearing date i.e., 26.03.2026 or on such date as may be fixed by the trial Court.

For Petitioner : Mr.J.Jeevin

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



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ORDER

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



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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:

The respondent has lodged a complaint against the petitioner in a matrimonial dispute and the learned Judicial Magistrate No.III, Thoothukudi has taken cognizance under Section 31 of the Protection of Women from Domestic Violence Act, 2005 and the same is pending as S.T.C.No.279 of 2024 before the aforesaid Court.

5. Relief Sought:

To directing the Learned Judicial Magistrate No.III, Thoothukudi to recall the Non- Bailable Warrant dated 19/02/2026 pending against the petitioner in STC.No.279 of 2024 filed under Section 31 of the



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protection of Women form Domestic Violence Act, 2005 and consequently, permit the petitioner to appear on the next hearing date i.e., 26.03.2026 or on such date as may be fixed by the trial Court.

6. Grounds urged by the petitioner:

Due to his unavoidable medical condition, he was unable to appear before the learned Magistrate on the date of hearing. Therefore, Non-Bailable Warrant came to be 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



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

8. Per contra, the learned Government Advocate 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.

¹ 1994 SCC OnLine Mad 860



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 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

² Footnote 1 supra

³ Footnote 1 supra



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 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. At the same time, ***P.A. Saleem***⁴ emphasises that trial Courts must act with promptitude and sensitivity. An accused who voluntarily appears and seeks recall of a warrant is not to be mechanically remanded; rather, the application must be considered forthwith and orders passed without delay. This approach strikes a constitutionally permissible balance between individual liberty and the collective interest in the expeditious administration of criminal justice.

⁴ Footnote 1 supra



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13. The new criminal laws, including the Bharatiya Nagarik Suraksha Sanhita, 2023, reiterate the commitment to a justice-oriented, victim-centric and citizen-responsive system. Speedy disposal of criminal cases is not merely an administrative objective but a constitutional mandate flowing from Article 21. Endless interlocutory interventions, particularly in matters relating to warrants, have the potential to derail trials, frustrate victims, and erode public confidence in the justice delivery system.

14. In the present case, the grievances raised by the petitioner are whether founded on medical grounds, alleged lack of service, jurisdictional objections, or age and infirmity as to are all matters that can and must be placed before the respective trial Courts in applications for recall of warrants. The statutory framework expressly empowers those Courts to consider such applications and to pass appropriate orders. If such orders are adverse, the law provides for revisional scrutiny.



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15. In view of the binding dictum laid down in ***P.A. Saleem***⁵ and the Common Judgment of this Court in Crl.O.P.(MD) Nos.21580, 22630, 22033 & 22808 of 2025, this Criminal Original Petition is not maintainable for the relief sought. As far as the orders passed by this Court in Crl.O.P. No. 6742 of 2025 and other similar orders, this Court finds that the dictum in P.A. Saleem and other cases has been left unnoticed.

16. Accordingly, this Criminal Original Petition is disposed of, with the following clarifications:

(a) The petitioner is directed to approach the learned Judicial Magistrate No.III, Thoothukudi by filing an appropriate application under Section 72(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking recall or cancellation of the Non-Bailable Warrant dated 19.02.2026.

(b) Upon such application being filed, the learned trial Court shall consider and dispose of the same expeditiously, preferably on the

⁵ Footnote 1 supra



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same day, in accordance with law, without adopting a mechanical or punitive approach.

(c) In the event of any adverse order, it shall be open to the petitioner to avail the revisional remedies provided under law.

(d) The learned trial Court is also reminded of its obligation to ensure expeditious conduct of the trial, consistent with the mandate of Article 21 of the Constitution of India.

25.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To

- 1.The Judicial Magistrate No.III,
Thoothukudi.
- 2.The Inspector of Police,
Thermalnagar,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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