



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF APRIL, 2023

BEFORE

THE HON'BLE MR JUSTICE T.G. SHIVASHANKARE GOWDA

CRIMINAL PETITION NO. 3692 OF 2023

BETWEEN:

V NARASIMHAMURTHI
AGED ABOUT 42 YEARS,
S/O VENKATABHOVI,
R/AT NO. 502, 11TH A CROSS,
MAHALAKSHMIPURAM,
BANGALORE-560086

...PETITIONER

(BY SRI. PRINCE ISAC., ADVOCATE)

AND:

STATE BY BIDADI POLICE STATION
RAMANAGARA DISTRICT,
REP BY SPP HIGH COURT BUILDING,
BANGALORE.

...RESPONDENT

(BY SRI RAHUL RAI, HCGP)

THIS CRL.P IS FILED U/S.482 OF CR.P.C PRAYING TO QUASH / SET ASIDE THE ORDER OF THE ISSUANCE OF NBW AND ISSUANCE OF PROCLAMATION ORDER UNDER SECTION 82 AND 83 OF THE CR.P.C DATED 29.02.2020 AND ALL SUBSEQUENT ORDERS OF ISSUANCE OF THE SAID ORDER WHICH WAS LAST ISSUED ON 21.02.2023, ORDER SHEET OF THE COURT IS PRODUCED AT ANNEXURE-A TO THIS PETITION IN CC NO. 981/2014 FOR THE OFFENCES PUNISHABLE UNDER SECTION 143, 427, 447, 324, 504, 506, 120 B R/W 149 OF INDIAN PENAL CODE.



THIS PETITION, COMING ON FOR ORDERS, THIS DAY,
THE COURT MADE THE FOLLOWING:

ORDER

This petition is filed under Section 482 of Cr.P.C. challenging the order dated 29.02.2020 passed in C.C.No.981/2014 on the file of the Principal Civil Judge and JMFC, Ramanagara for the offences under Sections 143, 447, 427, 504, 324, 506, 120(B) r/w 149 of IPC .

2. Heard Sri Prince Isac, learned counsel for the petitioner and also learned HCGP for the respondent. Perused the records.

3. It is the contention of the learned counsel for the petitioner that without following the procedure contemplated and without serving summons to the petitioner, the trial Court has directly issued non-bailable warrant against the petitioner. Without any speaking order, acting under Sections 82 and 83 of the Cr.P.C., directed to publish the proclamation against the petitioner and other 38 accused persons is erroneous.

4. Learned HCGP has vehemently opposed the bail application on the ground that the petitioner is well aware of



the proceedings in spite of it he has avoided appearance before the Court and for this reason, the trial Court constrained to issue non-bailable warrant. Even after issuing non-bailable warrant, the petitioner did not appear. Hence, recourse under Sections 82 and 83 of Cr.P.C has been brought in. It is further contended that the remedy available before the trial Court for the petitioner to surrender and seek for recall of the warrant.

5. On perusal of the record, it is pertinent to note that there are 39 accused persons charge sheeted, in which the petitioner is arrayed as accused No.2. On 29.02.2020, for the first time, non-bailable warrant was ordered against accused Nos.1 to 39 and so also proclamation under Sections 82 and 83 of the Cr.P.C. In the previous dates, the trial Court ordered for summons only. There is no endorsement to show what was the fate of the summons. Without recording any reasons, order of issuing non-bailable warrant and proclamation was passed, which shows non-application of mind by the trial Court.

6. Since the matter is of the year 2014, the petitioner has come forward to face the trial he is required to go before the trial Court at the earliest. The apprehension is that in view



of the proceedings under Sections 82 and 83 of Cr.P.C, the petitioner will be subjected to judicial custody.

6. Having regard to the facts and circumstances of the case and in the background of the impugned order, the petitioner has come forward to face the trial, it is a fit case to request the trial Court to consider the application request of the petitioner for recall and also for grant of bail on the day he appears before the Court. Hence, instead of deciding this petition on merits, in the ends of justice, it is proper to dispose off the petition.

7. Accordingly, the petition is disposed off.

**Sd/-
JUDGE**