

# Man Mohan Kumar Punia vs The District Appointing Officer on 1 December, 2021

**Author: G.R.Swaminathan**

**Bench: G.R.Swaminathan**

CrI.O.P(MD)No.18

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P(MD)No.18848 of 2021

Man Mohan Kumar Punia

... Petitioner

Vs.

1.The District Appointing Officer,  
Food Safety Department,  
Theni.

2.The Food Safety Officer,  
Allinagaram,  
Municipal Block,  
Theni.

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the learned Judicial Magistrate, Theni, to consider warrant recall application if any, filed by the petitioner under Section 70(2) of Cr.P.C. against the non bailable warrant issued by learned Judicial Magistrate, Theni in C.C.No.1808 of 2019 dated 13.09.2021 on his surrender on the same day.

For Petitioner : Mr.S.Sivakumar  
For Respondents : Mr.T.Senthil Kumar,  
Addl. Public Prosecutor.

ORDER

The petitioner is facing trial in C.C.No.1808 of 2019 on the file of the Judicial Magistrate, Theni for the offences under the provisions of Food Safety and Standards Act, 2006. Non bailable warrant has been issued against the petitioner. The petitioner is ready to appear before the trial Magistrate. However, he is apprehensive that the recall petition may not be considered on the same day and as a result, he may be remanded to custody.

2.I was inclined to allow the application straightaway. But then, the learned Additional Public Prosecutor pointed out that on account of the non-appearance of the petitioner before the trial Magistrate, Mr.A.Shanmugam, Food Safety Officer, Allinagarm, Theni, had to go all the way to Haryana along with four other police personnel to secure the petitioner herein. He had to spend a sum of Rs.25,000/-. I made it clear to the petitioner's counsel that unless the said amount is reimbursed, I will not be inclined to grant any relief to the petitioner herein. The petitioner's counsel on instructions submitted that the petitioner would take a demand draft for a sum of Rs.25,000/- favouring the Designated Officer, Food Safety Department, Theni and hand over the same to the <https://www.mhc.tn.gov.in/judis> second respondent. Thereafter, the second respondent will in turn hand over the original demand draft to the Designated Officer and also submit his claim for reimbursement for the expenses incurred in connection with his trip to Haryana. The Designated Officer shall reimburse Mr.A.Shanmugam and honour the bills submitted by him without any delay, in any event, within a period of seven days, after the original demand draft is encashed. I need not add that the question of second respondent making an independent claim before the Government will not arise.

3.Since the petitioner has undertaken to reimburse the expenses incurred by the second respondent, the petitioner is directed to appear before the trial Magistrate on 04.12.2021 and apply for recall of warrant. The learned trial Magistrate shall allow the recall petition and shall not remand the petitioner to custody.

4.The criminal original petition is allowed on these terms.

01.12.2021 Index :Yes/No Internet : Yes/No ias <https://www.mhc.tn.gov.in/judis> Note :Issue order copy on 02.12.2021.

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned. To:

1.The Judicial Magistrate, Theni.

2.The District Appointing Officer, Food Safety Department, Theni.

3.The Food Safety Officer, Allinagaram, Municipal Block, Theni.

<https://www.mhc.tn.gov.in/judis> <https://www.mhc.tn.gov.in/judis> G.R.SWAMINATHAN, J.

ias 01.12.2021 <https://www.mhc.tn.gov.in/judis>