

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23..09..2016

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Criminal Original Petition No.21700 of 2016

M.Suryaprakash
Represented through his
Father-R.Mathusuthanan as a
Natural Guardian

... Petitioner

-Versus-

The Inspector of Police,
Erode (Chennai Railways) Police Station,
Erode.
[Crime No.197 of 2016]

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the Juvenile Justice Board, Erode to consider the bail application on the same day on the surrender of the petitioner in connection with the respondent police in Crime No.197 of 2016.

For Petitioner : Mr.M.Purushothaman

For Respondent : Mr.C.Emalias, APP

ORDER

This petition has been filed seeking a direction to the Juvenile Justice Board, Erode, to consider the bail application of the petitioner on the same day on his surrender and release him on bail.

2. Heard both sides and also perused the records carefully.

3. This court, while dealing with a batch of identical cases in Ajit Kumar v. State [Crl.O.P.(MD) Nos.1785 of 2016, 1941, 2073, 2047 and 2224 of 2016 ordered dated 16.02.2016], has observed as follows:-

"13. Section of Act 2 of 2016 also has non obstante clause, indicating the legislative intent, that the source of power to grant bail under this Act is independent from that of the

Code. Section 5 of Code of Criminal Procedure indubitably protects the procedures laid down in special statutes from the onslaught of the provisions of the Code in the absence of a specific provision to the contrary in the Code. This rests on the principle Generalia Specialibus Non Derogant (special law prevails over general law). The non obstante clause used in Section 1(4) and Section 12 of the Juvenile Justice Act cited supra denudes the power of this Court to issue such directions under Section 482 Cr.P.C. Section 482 cannot be used to foreclose the power of the Board to conduct a full fledged enquiry under Section 12 of the J.J.Act.

14. Therefore, this Court has no jurisdiction under Section 482 Cr.P.C. to give such directions as prayed for by the petitioners in matters concerning a special statute, namely, the Juvenile Justice Act, and directing the Board to act in breach of law, however, noble it may seem to appear.

In the result, all these petitions stand dismissed and it is left open to the respective Juvenile Justice Boards to decide the cases without in any way being influenced by what is stated above and pass orders in accordance with law."

4. In view of the above, this criminal original petition is dismissed and it is left open to the Juvenile Justice Board, Erode, to decide the case without in any way being influenced by what is stated above and pass appropriate orders in accordance with law.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Juvenile Justice Board,
Erode.

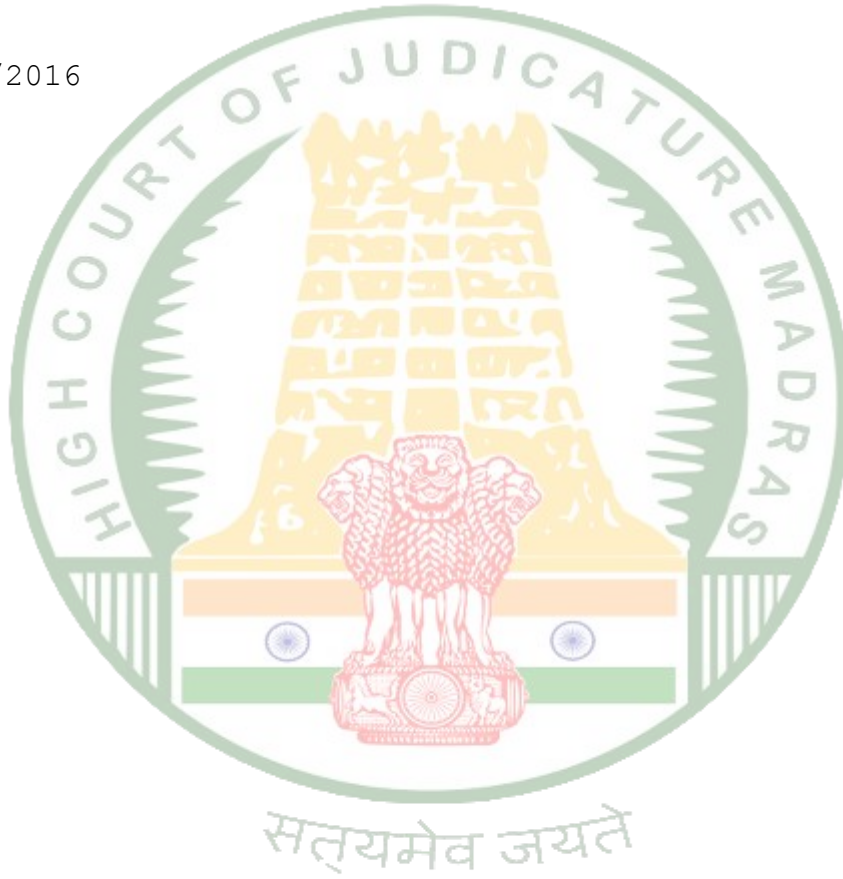
2.The Inspector of Police, Erode (Chennai Railways) Police
Station, Erode.

3.The Public Prosecutor,
High Court, Chennai.

+2cc to Mr.M.Purushothaman, Advocate Sr.54392

Cr1.O.P.No.21700 of 2016

kk[co]
srg 19/10/2016



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