



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C(MD) .No.541 of 2017

and

Crl MP(MD)No.6059 of 2017

Vijay @ Attak Vijay

... Petitioner

Vs.

1. The Deputy Commissioner of Police
(L & O) cum Executive Magistrate,
Madurai.

2. The Inspector of Police,
Anna Nagar Police Station,
Madurai.

3. The Superintendent,
Sub Jail, Melur,
Madurai District.

... Respondents

Prayer : Criminal Revision Case filed under Section 397 r/w 401 to call for records in M.C.No.784/NI.SE.NA & KA.TU.AA/MA.MAA/2016 dated 27.12.2016 on the file of the first respondent and set aside the same.

For Petitioner : Mr.J.Praveen

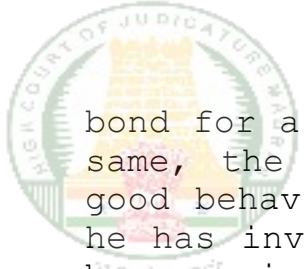
For Respondents : Mr.C.Mayilvahana Rajendran,
Additional Public Prosecutor

O R D E R

Challenging the order passed under Section 122(1)(b) read with 117 Cr.P.C, this Criminal Revision Case has been filed.

2.The case of the prosecution, in brief, is as follows:

The petitioner herein is an accused in Crime No.2621 of 2016 on the file of E3, Anna Nagar Police Station, Madurai for the offence under Sections 147, 148, 294(b), 307 and 506(ii) IPC. Earlier, the first respondent has initiated proceedings against the petitioner under Sections 110 and 117 read with 113 Cr.P.C. in Crime No.2427 of 2016 and directed the petitioner to execute a



bond for a sum of Rs.1,00,000/- to maintain peace. Pursuant to the same, the petitioner has also executed a bond on 06.10.2016 for good behavior for a period of one year. Thereafter, on 31.10.2016 he has involved in another crime and First Information Report has been registered against him in Crime No.2621 of 2016 as mentioned above. Since the petitioner has breached the bond executed by him, the first respondent/Executive Magistrate passed an order under Section 121(1)(b) read with 117 Cr.P.C cancelled the bond and detained the petitioner for the remaining period, till 05.10.2017. Challenging the same, the present Criminal Revision Case has been filed.

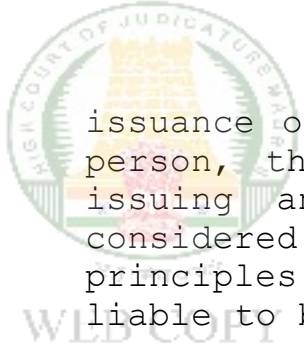
3.I have heard Mr.J.Praveen, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondents and perused the records carefully.

4.The learned counsel appearing for the petitioner submitted that the first respondent/Executive Magistrate without issuing notice and without conducting enquiry whatsoever, passed the impugned order cancelling the bond executed by the petitioner and also detained him to undergo the remaining period, which is violation of principles of natural justice. Apart from that, the Executive Magistrate without applying his mind, has mechanically passed the order.

5.Per contra, the learned Additional Public Prosecutor appearing for the respondents would contend that the petitioner has already executed a bond for maintaining peace, subsequently, he has involved in another crime, in the above circumstances, the first respondent/Executive Magistrate has passed the impugned order and there is no illegality in the order passed by the first respondent.

6.I have considered the rival submissions made on either side.

7.Admittedly, proceedings has been initiated against the petitioner under Sections 110, 117 read with 113 Cr.P.C and the petitioner has executed a bond on 06.10.2016 to maintain peace for a period of one year. Now, according to the first respondent, within a period of 25 days, on 31.10.2016 the petitioner has involved in another crime and First Information Report has also been registered for the offences under Sections 147, 148, 294(b), 307 and 506(ii) IPC in Crime No.2621 of 2016 on the file of E3, Anna Nagar Police Station, Madurai. Hence, he cancelled the bond and detained the petitioner to undergo the remaining period. But, before passing that order, no notice has been issued and no enquiry has been conducted by the first respondent and he failed to record the proof and passed the impugned order. Even though section 122(1)(b) Cr.P.C., does not prescribe any enquiry and



issuance of notice, since it is a matter relates to liberty of a person, the first respondent, passed the impugned order without issuing any notice or any enquiry and hence, I am of the considered view that the order has been passed in violation of principles of natural justice. Therefore, the impugned order is liable to be set aside.

8. In fine, this Criminal Revision Case is allowed and the order passed in M.C.No.784/NI.SE.NA & KA.TU.AA/MA.MAA/2016 by the first respondent is set aside. Consequently, CrI MP(MD)No.6059 of 2017 is closed.

Sd/-
Assistant Registrar ()

/True copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner of Police
(L & O) cum Executive Magistrate,
Madurai.
2. The Inspector of Police,
Anna Nagar Police Station,
Madurai.
3. The Superintendent,
Sub Jail, Melur,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.J.Praveen, ADVOCATE IN SR No.75247

mj

MK/SV MMS/SAR-1/06.09.2017/3P/6C

CrI.R.C (MD) No.541 of 2017
28.08.2017