



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

CRL.R.C. (MD) No. 629 of 2017

and

CRL.M.P (MD) No. 7095 of 2017

M. Manojkumar

... Petitioner

Vs.

1. The Deputy Commissioner of Police,
Law and Order Cum Executive Magistrate,
Trichy City.

2. The Inspector of Police,
Srirangam Police Station,
Trichy City.
(Crime No. 505/17)

... Respondents

Prayer: The Criminal Revision Petition is filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records pertaining to the detention order passed in M.C.No.607/2016 in C.No.426/E.M.C.DC. Trichy City/2016 on the file of the Deputy Commissioner of Police law and order Cum Executive Magistrate, Trichy City dated 01.07.2017 and set aside the same.

For Petitioner : Mr.K.Kumaresan

For Respondents : Mrs.C.Mayilavahana Rajendran
Additional Public Prosecutor

O R D E R

Challenging the order passed under Section 122(1) (b) r/w Section 111 Cr.P.C., by the first respondent, the Executive Magistrate, the Criminal Revision Petition has been filed.

2. According to the respondents, the petitioner is a notorious criminal in Srirangam, Trichy. On 26.06.2016, a crime has been registered against him by the second respondent Police in Crime No.505 of 2017, for the offence under Sections 294(b), 324 and 506 (ii) of I.P.C. Before that, a proceedings under Section 110 of Cr.P.C. has been initiated against the petitioner for maintaining good conduct and he was also directed to execute a bond. Pursuant to the same, on 02.11.2016, the petitioner executed a bond for Rs.10,000/- for good behaviour for a period of one year. After 236 days from executing the bond, he committed the above said offence. In the above circumstances, the first respondent has initiated the proceedings to cancel the bond executed by the



petitioner and detaining him to undergo imprisonment for the remaining period.

3. Since the petitioner was in jail, he was directed to appear before the Executive Magistrate for enquiry on 01.07.2017 and he was also produced on P.T. Warrant. In his presence, enquiry was conducted, in which the Inspector of Police, the Sub-Inspector of Police and the Deputy Commissioner of Police in the above case were present and given evidence. Considering all these proof, the Executive Magistrate has come to the conclusion that he has committed the breach. Hence, the Executive Magistrate has passed the impugned order detaining him for the remaining period of 124 days. Challenging the above said order, the present Criminal Revision Case has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

5. On perusal of the records, it is seen that the Executive Magistrate after coming to know about the breach committed by the petitioner, issued a notice to the petitioner for an enquiry on 01.07.2017 and conducted an enquiry and also examined the witnesses. Even though the witnesses were examined in his presence, he was not given an opportunity to raise any objection for the same. The enquiry was conducted on 01.07.2017 and the Executive Magistrate has also passed an order on the very same day, without being given an opportunity to the petitioner.

6. In view of the same, the order passed in M.C.No.607 of 2016 is in total violation of principles of natural justice without giving proper opportunity to the petitioner and hence, the impugned order passed by the Executive Magistrate, Trichy is liable to be set aside. Accordingly, this Criminal Revision Case is allowed and the impugned order, dated 01.07.2017 passed by the Executive Magistrate, Trichy in M.C.No.607 of 2016 is set aside. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner of Police,
Isaiah Nagar, Coimbatore
Cum Executive Magistrate,
Trichy City.



2. The Inspector of Police,
Srirangam Police Station,
Trichy City.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4. The Superintendent, Central Prison,
Trichy.

+1cc to Mr.K.Kumaresan, Advocate Sr.No.77971

TA/AKV

VB/RSK/SAR3/13/09/2017/3P/6C

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