

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.569 of 2018
and
Crl.M.P.No.6722 of 2018

Elango

... Petitioner/Accused

... Vs ...

1. State Represented by
Executive Magistrate Cum
Deputy Commissioner of Police,
Washermenpet,
Chennai.

2. Inspector of Police,
N-1, Royapuram Police Station,
Chennai.

... Respondents

PRAYER:

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., against the order dated 21.11.2017 passed by the Executive Magistrate Cum Deputy Commissioner of Police, Washermenpet, in R.C.No.165 of 2017.

For Petitioner : Mr.S.Shankar

For Respondents : Mr.R.Surya Prakash,
Government Advocate

ORDER

The accused is the petitioner herein. Challenging the order passed under Section 122(1) of Cr.P.C, this Criminal Revision Case has been filed.

2. Learned counsel appearing for the petitioner submitted that the petitioner was arrested on 04.07.2017 in connection with a case in Crime No.1331 of 2017 for the offence under Section 110 of Cr.P.C. registered by the second respondent police and he was granted bail. Based on the report of the second respondent police, the first respondent has passed an

order under Section 110 of Cr.P.C. in C.No.165/Sec.Pro./DC.WPT/2017 dated 07.10.2017 for keeping peace for a period of one year and accordingly, the petitioner executed sureties on the same day as per order of the first respondent. On 12.11.2017, the second respondent has registered a case in Crime No.1936 of 2017 for the offences under Sections 241, 294(b), 324 and 506(ii) IPC as if the petitioner abused and attacked the de facto complainant in that case and he was remanded by the learned XVI Metropolitan Magistrate on the same day. Alleging that the petitioner breached the conditions set out in the bail bond, the first respondent by its order dated 21.11.2017, cancelled the bail bond and directed the petitioner to be kept in prison till the end of the bail bond period as per Section 122(i) of Cr.P.C. Learned counsel appearing for the petitioner further submitted that no speaking order has been passed by the first respondent as to how he has to come to a conclusion to cancel the bail granted to the petitioner and further the first respondent has not recorded any reason before passing the order under Section 122(i) of Cr.P.C. and no prior notice has been given before passing the order as laid down in the case of Balamurugan Vs. Inspector of Police in R.C.(MD) No.535 of 2016.

3. Mr.R.Surya Prakash, learned Government Advocate takes notice on behalf of the respondents.

4. The factual position contended by the petitioner with regard to the execution of surety bond under Section 110 of Cr.P.C. and registration of the criminal case in Crime No.1936 of 2017 for the alleged offences under Sections 241, 294(b), 324 and 506(ii) IPC against the petitioner herein are not in dispute.

5. The only point that has been urged by the learned counsel for the petitioner is that merely because the criminal case has been registered against the petitioner during the subsistence of the sureties to keep peace for a period of one year, the first respondent cannot pass an automatic order of detention for the remaining period and the principles of natural justice as laid down in the case of Balamurugan Vs. Inspector of Police in R.C.(MD) No.535 of 2016 was not followed.

6. Learned Government Advocate has produced a bunch of typed set of original papers wherein, it is seen that a notice has been issued by the first respondent/Executive Magistrate Cum Deputy Commissioner of Police, Washermenpet, to the Jail Authorities for production of the accused, since he was in remand in connection with a criminal case and P.T. warrant has been issued for the appearance of the petitioner before the first respondent. After perusing the records, it is seen that

the show cause notice has been issued by the respondent police under Section 122 (1) of Cr.P.C. on 20.11.2017 based upon the affidavit given by the Inspector of Police. Copies of FIR and statement of witnesses in connection with the case have been placed before the respondent police along with remand report and confession statement of the accused and copy of the Accident register has also been enclosed. On 20.11.2017, P.T. Warrant was issued to produce the accused and on 21.11.2017, show cause notice has also been served upon him as to why action against the person to be taken under Section 122 (1) of Cr.P.C. and on 21.11.2017, another witness viz., Chandrasekaran was summoned on 21.11.2017 and on behalf of the State, they have examined three witnesses namely Rajabart, Selvakumar, Chandrasekaran and thereafter, the accused was questioned about the statement and accused was present and answered the questions on 21.11.2017. Thereupon, the Executive Magistrate-cum-Deputy Commissioner has passed an order in M.P.No.1 of 2017. After going through the order, I am satisfied that procedures contemplated under Section 122(1) of Cr.P.C. has been duly complied with and thereafter, final orders appears to have been passed.

7. After going through the bail bond executed by the petitioner and taking note of the case registered by the Inspector of Police, N-1, Royapuram Police Station in Crime No.1936 of 2017 and on a perusal of the connected records which would go to show that necessary notice has been issued to the petitioner/accused for his appearance and show cause as to why he should not be remanded as contemplated under Section 122 of Cr.P.C. and in view of the fact that the entire procedure contemplated for passing orders under Section 122(i) of Cr.P.C. has been duly complied with, I am satisfied that the principles set out in the case in CrI.R.C.(MD) No.535 of 2016 have been complied with. Hence, I do not find any irregularity or illegality in the order under challenge.

8. In this view of the matter, this Criminal Revision Case is devoid of merits and the same is dismissed. Consequently, the connected miscellaneous petition is also dismissed.

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Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Jr1

To

1. The Executive Magistrate Cum
Deputy Commissioner of Police,
Washermenpet,
Chennai.
2. The Inspector of Police,
N-1, Royapuram Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.569 of 2018

PVS (CO)
CS/05/07/18



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