



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.10.2018
CORAM:
THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1OP[MD]No.19327 of 2018
and
Cr1MP (MD)No.8720 of 2018

Kannan : Petitioner/Respondent
Vs.

- 1.The Executive Magistrate Cum
Deputy Commissioner of Police,
Law and Order,
Madurai City. ...Respondent/Executive Magistrate
- 2.The Inspector of Police,
Jaihindpuram (L&O) Police Station,
Madurai City.
[Crime No.112 of 2018] ...Respondent/Complainant
- 3.The Superintendent,
Central Prison,
Madurai. ... Respondent/Respondent

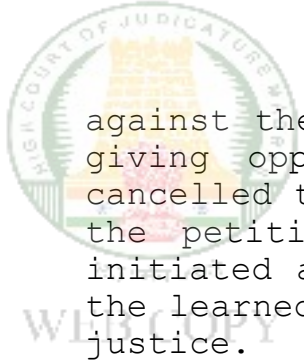
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to the impugned notice of the 1st respondent by his proceedings in MC No. 621/Ne.Sae.Na.&Ka.Thu.Aa./M.Ma./2018 dated 12.10.2018 and quash the same as illegal and allow the above Criminal Original Petition.

For Petitioner : Mr.M.Jagadeesh Pandian
For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate [Cr1. Side]

ORDER

This petition has been filed challenging the impugned notice of the first respondent in his proceedings dated 12.10.2018.

2.The learned Counsel for the petitioner would submit that the proceedings were initiated against the petitioner under Section 110 of CrPC and a show cause notice was also issued to him. After the enquiry, the first respondent directed the petitioner to execute a bond under Section 117 of CrPC and the petitioner also executed a bond with two sureties for a sum of Rupees One Lakh each. Thereafter, the second respondent Police registered a case against the petitioner on 11.10.2018 in Crime No.671 of 2018 under Section 4(1)(aaa), 4(1)(I) and 24 of TNP Act. The petitioner was also arrested and remanded to judicial custody in the said case. Thereafter, the first respondent has issued the impugned notice



against the petitioner under Section 122(1)(b) of CrPC. Even before giving opportunity to the petitioner, the first respondent has cancelled the bond and has issued the show cause notice calling upon the petitioner to explain, as to why the action should not be initiated against him under Section 122(1)(b) of CrPC. According to the learned Counsel, it amounts to violation of principle of natural justice.

3.The learned Government Advocate would submit that this petition is not maintainable, since it challenges the show cause notice issued by the first respondent. The learned Government Advocate would submit that it is always open to the petitioner to go and make his submissions before the first respondent and without doing so, the petitioner has rushed before this Court by filing the present Criminal Original Petition.

4.This Court has carefully considered the submission made on either side.

5.A reading of the impugned notice issued by the first respondent, reveals that the first respondent has merely called upon the petitioner to show cause, as to why the security bond executed by him should not be cancelled and as to why action should not be initiated against the petitioner under section 122(1)(b) of CrPC.

6.A reading of the show cause notice does not indicate that the security bond executed by the petitioner has been cancelled. Therefore, it is open to the petitioner, to appear before the first respondent and submit his defence and it is left open to the first respondent to decide the further course of action in accordance with law.

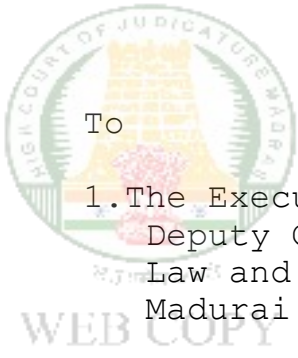
7.This Criminal Original Petition is disposed of with a direction to the petitioner to submit his explanation to the show cause notice issued by the first respondent. The first respondent shall consider the representation to be made by the petitioner and thereafter, take a decision with regard to the cancellation of the bond and the action to be taken under Section 122(1)(b) of CrPC. This exercise shall be completed by the first respondent within a period of six weeks from the date of receipt of the representation.

8.It is made clear that the petitioner shall be entitled to engage the services of an Advocate in order to defend himself in the proceedings pending before the first respondent. Consequently, CrIMP (MD)No.8720 of 2018 is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/



To

- 1.The Executive Magistrate Cum
Deputy Commissioner of Police,
Law and Order,
Madurai City.
- 2.The Inspector of Police,
Jaihindpuram (L&O) Police Station,
Madurai City.
[Crime No.112 of 2018]
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.M.Jagadeesh Pandian, Advocate, SR.No. 93215

Cr1OP[MD]No.19327 of 2018
29.10.2018

DSK

ES/SKN/RSK/SAR 3/01.11.2018/3P/6C