



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 15.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
Crl.R.C. (MD) No.518 of 2018

Poongodi

... Petitioner

vs.

1. The Executive Magistrate /
Deputy Commissioner of Police,
Law and Order,
Madurai City,
Madurai.

2. The Inspector of Police,
Law and Order,
B5, South Gate Police Station,
Madurai.

3. The Superintendent of Police,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER:- Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records connected with the order passed by the first respondent in M.C.587/Ni.Se.Na&Kaa.Thu.Aaa/Ma.Maa/2018 dated 10.08.2018 and set aside the same.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.P.G.OHM.Chairma Prabhu
Government Advocate (Crl.Side)

ORDER

This criminal revision case has been filed to set aside the order dated 10.08.2018 passed in M.C.587/Ni.Se.Na & Kaa.Thu.Aaa/Ma.Maa/2018 by the first respondent.

2.As against the petitioner's husband / detenu namely, Balasubramani @ Acidbala, the first respondent had passed the order under Section 117 Cr.P.C., to execute a bond to keep peace for a period of one year. Obeying the order of the first respondent, he gave two sureties with a bond for a sum of Rs.1,00,000/- in M.C.No.587 of 2018. Without following the mandatory procedures before passing the order under Section 11 Cr.P.C., the second respondent police arrested the detenu by alleging that he involved in a case in Crime No.434 of 2018 under Section 8(c) r/w 20(b), (ii), (B) NDPS Act.

3.The first respondent has passed the impugned order by stating that the detenu had breached the conditions at the bond executed under Section 117 Cr.P.C.



4.The learned counsel for the petitioner would submit that no opportunity was given and no notice has been served before cancelling the security bond executed by the detenu and subsequently the order was passed.

5.The copy of the notice dated 30.07.2018 was placed before this Court.

6.On reading of the notice served on the detenu, it is seen that the same is not in accordance with the rule as contemplated under Section 11 Cr.P.C. Therefore, before passing the order, the first respondent has not followed the mandatory conditions. Therefore, the order 10.08.2018 passed in M.C.587/Ni.Se.Na & Kaa.Thu.Aaa/Ma.Maa/2018 by the first respondent is set aside and the first respondent is directed to serve notice to the detenu and after getting reply on the notice, pass the order in accordance with law.

7.This criminal revision case is disposed of with the above directions.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Executive Magistrate /
Deputy Commissioner of Police,
Law and Order,
Madurai City,
Madurai.
2. The Inspector of Police,
Law and Order,
B5, South Gate Police Station,
Madurai.
3. The Superintendent of Police,
Madurai Central Prison,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.Alagumani ,Advocate Sr.No.95911

MM