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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

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THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD) No.536 of 2018

and

Crl.M.P.(MD)No.7445 of 2018

A.Babu @ Thakkalibabu

...Petitioner/ sole Accused

Vs.

State rep by the

1.The Deputy Commissioner of Police,
Law and Order cum Executive Magistrate,
Office of the Deputy Commissioner of Police,
Madurai.

2.The Inspector of Police,
C1, Thideer Nagar (L & O) Police Station,
Madurai City.

...Respondents

PRAYER:Criminal Revision Petition - filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order passed by the Executive Magistrate in M.C.No.835 /Ni.Sa.Na and Ka.thu.Aa/ma.maa/2017 on the file of the learned Executive Magistrate, Madurai.

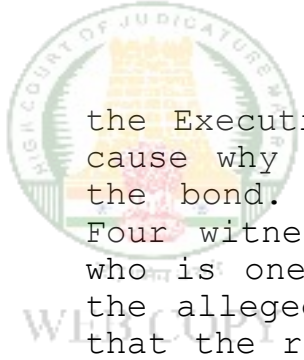
For Petitioner : Mr.S.Karthick Subramanian

For R1 & R2 : Mr.A.Robinson
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition is directed against the order passed by the learned Executive Magistrate under Section 122 (1) (b) r/w 117 of Cr.P.C.

2.The facts of the case is that since the revision petitioner / Babu @ Thakkali Babu is a notorious criminal, the Executive Magistrate has directed him to execute a bond to keep good behavior. Accordingly, he has executed a bond on 12.12.2017 under Section 110 of Cr.P.C. But despite executing a bond promising to keep good behavior, he had indulged in extraction on 31.07.2018 leading to registration of a complaint at Thideer Nagar Police Station, Trichy, in Crime No.457 of 2018 for offence under Sections 341, 392 I/W 397, 506 (ii) IPC. The revision petitioner was arrested in that case and remanded to judicial custody. Thereafter,



the Executive Magistrate has summoned him under PT Warrant to show cause why action should not be taken against him for breaching of the bond. The revision petitioner participated in the enquiry. Four witnesses were examined, more particularly P.W.3, Parthipan, who is one of the defacto complainant against this petitioner for the alleged occurrence took place on 31.07.2018. Being satisfied that the revision petitioner has breached the bond executed by him under Section 110 of Cr.P.C., invoking the power under Section 122 (1) (b) of Cr.P.C., the Executive Magistrate has remanded him to prison till 11.12.2018.

3.It is contended by the learned counsel for the revision petitioner that the impugned order revolves with infirmity. The executive Magistrate has not complied the requirement mentioned under Section 122(b) of Cr.P.C.. Having failed to apply his mind and record his subjective satisfaction, extracting the report of the recommending authority, the impugned order has to be quashed.

4.Perusal of the impugned order does not support the submission made by the revision petitioner. The Executive Magistrate has applied his mind in extracting the contact of the petitioner. The background for getting a bond of keeping good behavior from the revision petitioner and subsequent breach of said bond, the substratum of the evidence given by the witnesses P.W.1 to P.W.4, are considered and recorded in the impugned order.

5.In the above circumstances, nothing of the ground raised by the revision petitioner carries merit. Hence, this Court upholds the legality of the impugned order passed by the Executive Magistrate vide எம்.பி.835/நி.செ.ந. :கா.து.ஆ/ம/மா/2017 dated 21.08.2018.

6.The learned counsel for the revision petitioner would submit that the period of imprisonment till 11.12.2018 may be reduced by the period already undergone and the revision petitioner is ready to execute another fresh bond to keep good behavior and in future he will not indulge in any criminal activity.

7.Considering the said request, this Court is of the opinion that if such representation is given to the Executive Magistrate, he may consider the same and pass appropriate orders. Accordingly, this Criminal Revision Petition is disposed of. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

1. The Executive Magistrate, Madurai.

2. The Deputy Commissioner of Police,
Law and Order cum Executive Magistrate,
Office of the Deputy Commissioner of Police,
Madurai.

3. The Inspector of Police,
C1, Thideer Nagar (L & O) Police Station,
Madurai City.

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

+1CC to Mr.S.Karthick Subramanian, Advocate, SR.No.88616

Cr1.R.C.(MD) No.536 of 2018
04.10.2018

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ES/SKN/RSK/SAR 2/11.10.2018/3P/6C