

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2019

CORAM

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Crl.Rc.No.170 of 2019
and
Crl.M.P.No.1537 of 2019

Sriram @ Sri Ramakrishnan ... Petitioner

Vs

1.State By,
The Executive Magistrate,
cum Deputy Commissioner of Police,
T.Nagar Police District,
T.Nagar, Chennai.

2.The Inspector of Police,
E-3, Teynampet Police Station,
Teynampet, Chennai. ... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C, may be pleased to set aside the order of conviction and sentence passed by the Learned Executive Magistrate cum Deputy Commissioner of Police, T.Nagar Police District, T.Nagar, Chennai in Crl.M.P.No. 01 of 2018 in Na. Ka. No.204/ Nir.Se.Nadu /Ka. Thu.Aa.Thi.Ma/ 2018 on the file of the Inspector of Police, E3-Teynampet Police Station, Teynampet, Chennai.

For Petitioner : Mr.S.M.Nandhie Devhan

For Respondents : Mr.R.Ravichandran
Government Advocate (Criminal
Side)

O R D E R

This Revision petitioner has filed by the petitioner to set aside the order of conviction and sentence passed by the learned Executive Magistrate cum Deputy Commissioner of Police, T.Nagar Police District, T.Nagar, Chennai in CrI.M.P.No.01 of 2018 in Na.Ka.No.204/Nir.Se.Nadu/Ka.Thu.Aa.Thi.Ma/2018 on the file of the Inspector of Police, E3-Teynampet Police Station, Teynampet, Chennai.

2. The petitioner/accused was arrested on 18.08.2018 by the respondent police for the offences under Section 147, 149, 294 (b), 323, 307 and 506(ii) of IPC. The case was registered in Crime No.51 of 2018 and produced the petitioner before the first respondent. The first respondent passed an order under Section 110 Cr.P.C., released him on bail on executing a bond of Rs.10,000/- with two sureties. During the enforcement, the petitioner once again arrested on 17.09.2018, due to his other involvement in other case in Crime No.852 of 2018 for offence under Sections 294(b), 384 and 506(i) of IPC. The petitioner was remanded to prison and P.T. warrant was issued on 25.09.2018. On that day itself, the copies of the charge sheet was served on the petitioner and witnesses were examined and Section 313 proceeding was completed. During the pendency of the bond period, the petitioner involved in other cases and he was detained in the prison. At that time, he was directed to be produced before the 1st respondent and after making enquiry, the bond was cancelled and the impugned order came to be passed on 28.09.2018. At the relevant point of time, the Revision petitioner was detained in the prison.

3. On reading of the order, it is seen that the petitioner/accused has produced before the first respondent on 25.09.2018 and no opportunity was given to him to engage a counsel to defend his case and also to cross-examine the witnesses and remanded him on judicial custody. The first respondent has also without giving any opportunity to the petitioner and without application of mind remanded the petitioner and he acted as a mouth piece of the second respondent.

4. Under these circumstances, this Court is inclined to set aside the order passed by the learned Executive cum Deputy Commissioner of Police, T.Nagar Police District, T.Nagar, Chennai made in CrI.M.P.No.01 of 2018 dated 28.09.2018 and remitted back the matter to the first respondent for fresh consideration. The first respondent is directed to issue fresh notice to the petitioner for enquiry and after giving opportunity to the petitioner to engage a counsel for cross examining the witness and proceed further in accordance with law.

5. With the above directions, this Revision Case is allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

1.The Executive Magistrate,
cum Deputy Commissioner of Police,
T.Nagar Police District,
T.Nagar, Chennai.

2.The Inspector of Police,
E-3, Teynampet Police Station,
Teynampet, Chennai.

3. The Public Prosecutor,
High Court, Madras.

Cr1.Rc.No.170 of 2019
and

Cr1.M.P.No.1537 of 2019

KS (CO)
GMY (22/03/2019)

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