

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.208 of 2019

and

Crl.M.P.No.2107 of 2019

P. Jagan @ Jaganathan

..Petitioner/Respondent/
Accused

Vs

1. The Executive Magistrate cum
Deputy Commissioner of Police,
Triplicane Police Station
Chennai - 600 002

2. The State represented by
Inspector of Police
Law and Order
F-5, Choolaimedu Police Station
Chennai - 600 094

.. Respondents

PRAYER:

Criminal Revision case filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to set aside the order dated 22.10.2018 made in CMP No.1 of 2018 in proceedings No. Na.Ka.No. 124/ Nir. Che. Nadu. KAA. Thu. AA. Thi. Maa/ 2018 by the Executive Magistrate cum Deputy Commissioner of Police, Triplicane Police Station, Chennai -600 002.

For Petitioner : Mr.C. Prabakaran

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

O R D E R

Today, when the matter is taken up for consideration, Mr.C. Prabakaran, the learned Counsel appearing for the revision petitioner and the learned Government Advocate (Crl.Side) appearing for the respondents are present.

2. The learned Government Advocate for the respondents submitted that the revision petitioner is a convicted person in SC No.292 of 2009, for the offences punishable under Section 302 IPC. Subsequently, he was released and due to the involvement in other cases in Cr.No.702 of 2008, he was arrested again and produced before the 1st respondent. At that time, notice was given to him. After giving sufficient opportunity to the revision petitioner only, they have passed the order. Therefore, there is no illegality or infirmity in the order passed by the 1st respondent.

3. The learned Counsel appearing for the petitioner would submit that the revision petitioner has not been given show cause notice and also not given any opportunity to give his explanation. The order passed by the 1st respondent is illegal and therefore the same is liable to be set aside.

4. I have perused the material records. No doubt the petitioner was a convicted person for the offences punishable under Section 302 in SC No.292 of 2009. After completing his sentence, he was released. Subsequently, he was arrested on 10.10.2018 due to his involvement in other case in Crime No.702 of 2008. Therefore the Court by invoking Section 110 of Cr.P.C, released him on bail on executing a bond. Subsequently, he was arrested on 10.10.2018. During the pendency of the bond period, the petitioner involved in other case in Cr.No.702 of 2008 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 was passed on 22.10.2018. The petitioner was not served with the show cause notice through the Jail Superintendent. At the relevant point of time, the Revision petitioner was detained in the prison. Therefore, no notice was served through the Superintendent of Police or the Jail authorities.

5. Hence, the order passed by the 1st respondent is liable to be set aside. The 1st respondent is at liberty to take action after issuing show cause notice to the revision petitioner and proceed the matter and pass orders in accordance with the law.

6. In the result, the Criminal Revision is allowed by setting aside the order dated 22.10.2018 made in C.M.P.No.1 of 2018 on the file of the learned Executive Magistrate cum Deputy

Commissioner of Police, Triplicane Police, Chennai.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vrn/rli

To

1. The Executive Magistrate and
Deputy Commissioner of Police,
Triplicane, Chennai - 600 002.
2. The Inspector of Police (Law and Order)
F-5, Choolaimedu Police Station,
Chennai-94.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.10973

CrI.R.C.No.208 of 2019
and
CrI.M.P.No.2107 of 2019

KJ(CO)
CS/07/03/2019

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