

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.274 of 2019
and
Crl.M.P.No.2958 of 2019

C. Sathish ...Petitioner / Accused

Vs.

1. The Executive Magistrate cum
Deputy Commissioner of Police,
St. Thomas Mount District,
St. Thomas Mount.
2. The Inspector of Police,
S-9, Palavanthangal Police Station,
Law and Order, Chennai. ...Respondents / Respondents

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure to call for the records in C.M.P.No.899 of 2018, on the file of the first respondent and set aside the order in C.M.P.No.899 of 2018 dated 19.09.2018 passed by the first respondent.

For Petitioner : Mr.K.S.Sathish Kumar

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

ORDER

The above Criminal Revision Case has been filed by the petitioner to call for the records in C.M.P.No.899 of 2018, on the file of the first respondent and to set aside the order in C.M.P.No.899 of 2018 dated 19.09.2018 passed by the first respondent.

2. The petitioner/accused was arrested on 19.09.2018 by the respondent police for the offence under Sections 294(b), 392 and 506(ii) of IPC. The case was registered in Crime No.377 of 2018 and produced 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 11.11.2018, due to his other involvement in other case in Crime No.453 of 2018 for offence under Sections 341, 294(b), 392 and 506(ii) of IPC. The petitioner was remanded to prison and P.T. warrant was issued on 19.11.2018. On the day itself, the copies of the charge sheet served to the petitioner and witnesses were examined and 313 proceedings 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 was passed on 19.11.2018. 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 19.11.2018 and no opportunity was given him to engage a counsel to defend his case and also cross-examine the witnesses and remanded him on judicial custody. The first respondent has also without given any opportunity to the petitioner and non application of mind, he acted in the mouth peace of the police.

4. Under these circumstances, this Court is set aside the order passed by the learned Executive cum Deputy Commissioner of Police, T.Nagar Police District, T.Nagar, Chennai in CrI.M.P.No.01 of 2018 dated 19.11.2018 and remitted back to the first respondent. 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/-

सत्यमेव जयते
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rli

To

1. The Executive Magistrate cum
Deputy Commissioner of Police,
St. Thomas Mount District,
St. Thomas Mount.

2. The Inspector of Police,
S-9, Palavanthangal Police Station,
Law and Order, Chennai.
3. The Public Prosecutor,
High Court , Madras.

Cr1.R.C.No.274 of 2019
and
Cr1.M.P.No.2958 of 2019

VBA (CO)
SSM(27/03/2019) .



WEB COPY