

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.347 of 2019

and

Crl.M.P.No.114780 of 2019

Prabhu @ Loganathan @ Keraiprabhu

...Petitioner

-Vs-

1. The Executive Magistrate,
and Deputy Commissioner of Police,
Madavaram District.

2. The Inspector of Police,
H.5, Ennore Police Station,
Chennai.

....Respondents

This Criminal Revision Case is filed under Sections 397 read with Section 401 of Cr.P.C. to call for the entire records in connection with M.P.No.1 of 2019 in RC. No.31/Sec.Pro/DCP-MVM/2019 on the file of the learned Executive Magistrate and Deputy Commissioner of Police, Madhavaram District and set aside the order passed by the Executive Magistrate and Deputy Commissioner of Police, Madavaram District dated 18.03.2019 in M.P.No.1 of 2018 in RC.No.31/Sec.Pro/DCP-MVM/2019.

For Petitioner : Mr.V.Paarthiban

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

O R D E R

This criminal revision has been filed to call for the entire records in connection with M.P.No.1 of 2019 in RC. No.31/Sec.Pro/DCP-MVM/2019, dated 18.03.2019 on the file of the learned Executive Magistrate and Deputy Commissioner of Police, Madhavaram District.

2. The petitioner/accused was arrested on 08.02.2019 by the second respondent police for the offence under Sections 147, 148, 341 and 307 of IPC. The case was registered in Crime No.1495 of 2015 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 05.03.2019, due to his other involvement in other

case in Crime No.96 of 2019 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 14.03.2019. 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 18.03.2019. 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 18.03.2019 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 piece of the police.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate and perused the available materials on record.

5. Considering the facts and circumstances of the case, this Court is inclined to set aside the order passed by the learned Executive Magistrate and Deputy Commissioner of Police, Madavaram District in CrI.M.P.No.01 of 2019 dated 18.03.2019 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 disposed of. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Magistrate and
Deputy Commissioner of Police,
Madhavaram District
2. The Inspector of Police,
H.5, Ennore Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

CrI.R.C.No.347 of 2019
and

CrI.M.P.No.114780 of 2019

CSL/15.05.2019



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