

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.359 of 2019
and
CrI.M.P.No.5156 of 2019

Dinesh @ Pedi Dinesh ... Petitioner/Respondent

Vs

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

2.Inspector of Police,
Law and Order,
F-3, Nungambakkam Police Station,
Chennai ... Respondents/ Petitioner

PRAYER: Criminal Revision case filed under Section 397 and 401 of the Criminal Procedure Code, to set aside and revise the order dated 04.12.2018 passed by the 1st respondent in Miscellaneous Petition No.1 of 2018 in R.C.No.204/Sec.Pro/DCP WPT/2018 on the file of the Executive Magistrate cum Deputy commissioner of Police of 1st respondent.

For Petitioner : Mr.S.Sugendran

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

ORDER

The case was registered against the petitioner/accused under Sections 341, 294(b), 384, 506(ii) of IPC, and Section 110 of Cr.P.C., proceedings. He was arrested and released on bond. Then subsequently, he was arrested in Crime No.930 of 2018 for the offence under Sections 341, 294(b), 384, 506(ii) of IPC. When he was arrested and produced before the respondent police on 30.11.2018, proceedings under Section 122(1)(A) of Cr.P.C., was issued. On 04.12.2018, he was produced before the respondent police on that day totally three witnesses were examined and also Section 313 Cr.P.C., proceedings were completed. Finally,

an order was also passed against the revision petitioner/accused. Challenging the said order the revision petitioner/accused filed a present Criminal Revision Case before this Court.

2 The learned counsel for the revision petitioner would submit that no show cause notice was issued, no opportunity was given. Only three witnesses were examined out of which two witnesses are police officials, only defacto complainant alone was examined as P.W.1., no opportunity was given to engage the counsel. Hence, the learned counsel prays to allow this Criminal Revision Case.

3 The learned Government Advocate (Criminal Side) would submit that though, he was arrested and produced before the 1st respondent on 30.11.2018 all the copies were given and also show cause notice was issued then he was produced 04.12.2018 and three witnesses were examined after finding that the accused had committed the offence under Sections 341, 294(b), 384, 506(ii) of IPC. The learned Executive Magistrate cum Deputy Commissioner of Police, passed an order, and also sufficient opportunity has been given but he has not taken any steps for engaging the counsel and also to defend the case. Hence, there is no question on denial of opportunities. Therefore, the learned Government Advocate (Criminal Side) prays to dismiss the present Criminal Revision Case.

4 Heard both sides and perused the materials available on records.

5 The case was registered against the revision petitioner/accused and he was arrested and remanded to Judicial custody. Subsequently, he was released on bond. Previously, the petitioner/accused was arrested in crime No.513 of 2018 for the offence under Section 8C r/w 20B II(B), 25. 29 (1) of NDPS Act. He was produced before the respondent on P.T.Warrant on 30.11.2018 and thereafter, he was produced before the respondent police on 04.12.2018 the present order was came to be passed. On a bare perusal of records, all the proceedings were completed on 04.12.2018 but no records to show that sufficient opportunities had been given to the petitioner/accused for engaging the counsel and cross examined the witnesses, the other two witnesses were belong to the police department, except the witness of defacto complainant and the petitioner/accused is also in custody. There is no clear materials to show that all the formalities have been followed and opportunity has been given. However, in order to give an opportunity to the revision petitioner/accused, the order passed by the respondent is hereby set aside and the 1st respondent is directed to serve fresh show cause notice to the petitioner/accused through Superintendent of Jail, and also give an opportunity to engage a counsel on his behalf. In fact, if the petitioner/accused was not in a

position to engage the counsel the respondent is directed write a letter to the Tamil Nadu legal Services Authority to engage a counsel who is shown in legal aid panel. The 1st respondent is directed to give sufficient opportunities to cross examine all the witnesses and pass an orders on merits after completing the proceedings in accordance with law. Further, the respondent is directed to complete all the proceedings within one month from the date of receipt of copy of this order.

6 With the above directions, this Criminal Revision Case is disposed of. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

sbn

To

- 1.The Executive Magistrate cum
Deputy Commissioner of Police,
Triplicane Range, Chennai- 600 002.
- 2.Inspector of Police,
Law and Order,
F-3, Nungambakkam Police Station,
Chennai
- 3.The Public Prosecutor, High Court, Madras.
4. The Legal Services Authority, High Court, Madras

+lcc to Mr.S.Sugendran, Advocate SR.No.35908 (24/04/2019)

Crl.R.C.No.359 of 2019
and
Crl.M.P.No.5156 of 2019

VBM(CO)
GMY(16/04/2019)