

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.RC.No.589 of 2019
and
CRL.MP.No.7938 of 2019

Raj @ Salmanrajkumar

... Petitioner/Accused

Vs.

State Inspector of Police,
S - 11, Tambaram Police Station,
Chennai - 45.

... Respondent/Complainant

Criminal Revision Petition filed under Section 397 & 401 Cr.P.C., to call for the records on the file of the Executive Magistrate Cum Deputy Commissioner of Police, St.Thomas Mount Range, Chennai in M.P.No.183 of 2019 in Na.Ka.En.04/Nir.Sa.Ndu./Ka.Dhu.Aa/St. Thomasmount dated 28.05.2019 and set aside the order dated 28.05.2019.

For Petitioner : Mr.Senthilvel S.

For Respondent : Mrs.Kritika Kamal.P
Government Advocate
(Crl.Side)

O R D E R

It is the case of the prosecution that on 22.03.2019, when the Inspector of Police and his party were on rounds, they saw a person moving around suspiciously. They intercepted him and when questioned, he revealed that he is Raj @ Salmanrajkumar. On checking the station records, it came to light that Raj was involved in Crime No.378/2001 under Section 147, 148, 302 IPC. Therefore, proceedings under Section 107 Cr.P.C. was initiated against him and he was directed to appear before the Executive Magistrate cum Deputy Commissioner of Police, Adayar Range, St.Thomas Mount. He appeared before the Executive Magistrate on 08.04.2019 and executed a bond for good behaviour for Rs.10,000/- with two sureties. On 20.05.2019, a chain snatching incident took place within the limits of Tambaram Police Station. On the complaint lodged by one Jayasundari, a case in Crime No.510/2019 dated 20.05.2019 was registered under Section

379 IPC against unknown accused but in the F.I.R., a two wheeler bearing the number TN 11 AA 2135, Honda Dio has been referred to as the vehicle that was used in the commission of the offence. During the course of investigation, it came to light that Raj was the owner of the said two wheeler and therefore, he was arrested on 20.05.2019 and remanded to custody. While in custody, proceedings under Section 122 Cr.P.C. was initiated for breach of bond by the Executive Magistrate cum Deputy Commissioner of Police and he was sentenced to undergo imprisonment for 138 days from 20.05.2019 to 04.10.2019 by the impugned order dated 28.05.2019, challenging which, Raj is before this Court.

2. Heard Mr.Senthilvel S., learned counsel appearing for the petitioner and Mrs.Kritika Kamal. P, learned Government Advocate (Criminal Side) for the respondent - State.

3. Mr.Senthilvel S, learned counsel for the petitioner contended that there was no occasion for the Police to obtain a bond from the petitioner on 04.08.2019 because he was not involved in any offence during that time and even according to the Police, he was involved in a murder case in the year 2001 in which he was acquitted. Thereafter, he was not involved in any other offence.

4. Refuting the contentions, learned Government Advocate (Criminal Side) submitted that apart from Crime No.378/2001, the petitioner was involved in Crime No.25/2002 under Sections 147, 148 and 302 IPC, Crime No.01/2002 under Sections 341, 324 and 302 IPC and Crime No.25/2002 under Section 397 IPC.

5. However, the learned Government Advocate (Criminal Side) was not able to produce any record to show as to whether the petitioner suffered convictions in those cases.

6. It is the assertion of the learned counsel for the petitioner that, had the petitioner being convicted of the offence under Section 302 IPC, he would have suffered imprisonment for life and he would not have been available to move about suspiciously on 22.03.2019. Therefore, he contended that the petitioner was acquitted in all the cases and from 2002-2018, he was not involved in any case. There appears to be much force in the submission of Mr.Senthilvel S, learned counsel for the petitioner.

7. That apart, on a perusal of the bond dated 08.04.2019 executed by the petitioner, it is seen that it has been executed for good behaviour and not for breach of peace. For violation of a bond that was executed for good behaviour under Section 110 Cr.P.C., the executant cannot be sentenced to imprisonment under

Section 122 Cr.P.C for breach.

8. Therefore, the Criminal Revision Petition deserves to be allowed and accordingly allowed and the impugned order dated 28.05.2019 is set aside. The petitioner shall be directed to be released from custody if not required in any other case. Connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police,
S - 11, Tambaram Police Station,
Chennai - 45.
2. The Public Prosecutor,
High Court, Madras.
3. The Superintendent,
Central Prison, Puzhal.
4. The Executive Magistrate cum
Deputy Commissioner of Police,
St.Thomas Mount Range,
Chennai.

+1cc to Mr.S.Senthilvel, Advocate, SR.No.72851

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Kak(28/08/2019)