



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 18.08.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.317 of 2020

and

Crl.M.P.(MD)No.2693 of 2020

Suyambulingam @ Valli

.. Petitioner/Detenuue

Vs.

1.The Executive Magistrate / the Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanniyakumari District.

2.The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam,
Kanniyakumari District.

3.The Superintendent of Police,
Central Prison,
Madurai,
Madurai District.

.. Respondents/ Complainants

Prayer : This criminal revision case is filed under Sections 397 and 401 of Cr.P.C., to call for the records pertaining to the order dated 28.02.2020 passed by the first respondent / the Executive Magistrate / Tahsildar, Agasteewaram Taluk, Nagercoil, Kanniyakumari District in Na.Ka.C2/1781/2020 and to set aside the same as illegal.

For Petitioner

: Mr.Karuppasamy Pandian
For Mr.N.Pragalathan

For Respondents

: Mr.K.Dinesh Babu,
Additional Public Prosecutor



ORDER

This petition has been filed to set aside the proceedings passed in Na.Ka.C2/1781/2020 dated 28.02.2020, on the file of the first respondent.

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2.A case was registered against the petitioner in L.I.R.No.8 of 2009 under Section 110 of Cr.P.C. In M.C.No.587 of 2019, the petitioner executed a bond before the first respondent under Section 110 of Cr.P.C., to keep good conduct for a period of one year on 10.12.2019. Subsequently on 25.02.2020, the petitioner was arrested by Vadacherry Police Official relating to case in Crime No.51 of 2020 under Sections 294(b), 387 and 506(ii) of IPC. On the requisition of the second respondent, the first respondent passed the impugned order under Section 122(1)(b) of Cr.P.C., directing the petitioner to be in custody till 09.12.2020. Against that order, the petitioner preferred this revision petition.

3.On the side of the petitioner, it is stated that no show cause notice was issued to the petitioner and no enquiry was conducted. The respondents did not furnish any copies of the documents and no opportunity was given to the petitioner to putforth his case and prayed the impugned order to be set aside.

4.On the side of the petitioner, it is further stated that this Court in the similar case in **P.Sathish @ Sathish Kumar @ State** reported in **2019(2) MWN Criminal 136**, observed that eight guidelines are to be considered before passing an order under Section 122(1)(b) of Cr.P.C. However, in the present case, three guidelines were not followed.

5.On the side of the respondents, it is stated that the petitioner is a history sheeted offender. He was involved in 15 cases, including six murder cases, seven attempt to murder cases and all the other cases are serious in nature. Even after executing a bond under Section 110 of Cr.P.C., the petitioner violated the conditions of the bond and only on careful consideration of the document, the first respondent passed the impugned order and he raised objections to the petition.

6.It is seen that the petitioner is a history sheeted accused. The petitioner was involved in six murder cases. The impugned order reveals that it is a non speaking order and no show cause notice was issued to the petitioner and that the copies of the documents were not furnished to the petitioner and that no enquiry was conducted before passing the order. The petitioner almost served $\frac{3}{4}$ of the period mentioned in the impugned order.



7. In the above circumstances, the Criminal Revision Case is allowed and the impugned order in Na.Ka.C2/1781/2020, dated 28.02.2020, on the file of the first respondent is set aside. Consequently, miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Mrn

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Executive Magistrate / the Tahsildar,
Agasteeswaram Taluk,
Nagercoil,
Kanniyakumari District.
- 2.The Inspector of Police,
Rajakkamangalam Police Station,
Rajakkamangalam,
Kanniyakumari District.
- 3.The Superintendent of Police,
Central Prison, Madurai,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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