



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 25.06.2020
DELIVERED ON : 03.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C. (MD)No.370 of 2020
and
Crl.M.P. (MD) .No.3220 of 2020

Raja ... Petitioner/Detenuue
-vs-

1.The Executiv Magistrate cum Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.State rep. by,
The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.
(Cr.No.91 of 2020)

... Respondents/Complainants

Prayer: This Criminal Revision Case is filed Section 397 r/w 401 of the Code of Criminal Procedure, 1973, to call for the records relating to proceedings of the first respondent in M.C.No.02/2020/AA1 dated 05.06.2020 and set aside the same.

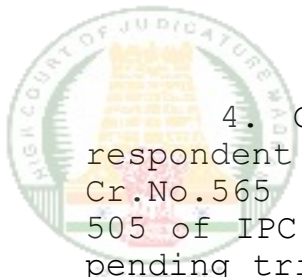
For Petitioner : Mr.S.Ravi
For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed by the petitioner challenging the order passed in M.C.No.02/2020/AA1 dated 05.06.2020 by the first respondent.

2. The learned counsel for the petitioner would contend that the order passed by the first respondent is unsustainable in law and without jurisdiction. Subjective satisfaction of the first respondent in passing order under Section 122(1)(b) of Cr.P.C., is against law and against the established principles.

3. The first respondent has filed the counter. By consent of the parties, the main case is taken up for final disposal.



4. On perusal of the records, it is seen that the second respondent police registered a case against the petitioner in Cr.No.565 of 2017 for the offences punishable under Sections 504, 505 of IPC and 3(1)(s) of SC/ST Act on 05.10.2017. The said case is pending trial in S.C.No.87 of 2018. Thereafter the second respondent police initiated proceedings against the petitioner under Section 110 of Cr.P.C., and took the petitioner to the office of the first respondent on 14.10.2019 and forced the petitioner to execute a bond to keep and good behaviour for one year in M.C.No.220 of 2019 on the same day under Section 117 of Cr.P.C.

5. On 21.03.2020, the second respondent police registered a case in Crime No.91 of 2020 on 21.03.2020 against the petitioner for the offences punishable under Sections 294(b) and 505(2) of Indian Penal Code and under Section 67 of Information Technology Act, 2000 on the complaint of one Navsath Alikhan on the allegation that the petitioner defamed muslim community people over cellphone through whatsapp.

6. The petitioner was arrested by the second respondent police on 21.03.2020 and remanded to judicial custody. Thereafter, the petitioner was enlarged on bail on 30.03.2020. The second respondent police on 23.03.2020 forwarded a report to the first respondent to initiate proceedings against the petitioner that the petitioner has violated the bond executed by the him on 14.10.2019 under Section 122 of Cr.P.C. The petitioner was served with notice on 03.06.2020 to appear before the first respondent on 03.06.2020. In obedience of the above said summon, petitioner duly appeared before the first respondent on 03.06.2020 and subsequently, held that the petitioner has violated the bond executed by him by not-keeping good behaviour under Section 122(1)(b) of Cr.P.C., and the same is under challenge.

7. The proceedings in M.C.No.2 of 2020 dated 05.06.2020 passed by the Executive Magistrate under Section 122(1)(b) of Cr.P.C., has produced before this Court.

8. On perusal of the entire records that has been produced by the learned Additional Public Prosecutor, it has been seen that the Inspector of Police, Karaikudi North Police Station, 2nd Respondent herein submitted a report before this first respondent that the petitioner herein is a habitual offender and History sheet Rowdy and History Sheet is maintaining in H.S.No.495f/2008 against him and since he has been continuously and frequently involved in various criminal activities to initiate proceedings under Section 110 of Cr.P.C. Based on the report and other documents, this first respondent issued Summon to the petitioner for enquiry on 14.10.2019 and after detailed enquiry this first respondent vide order in M.C.No.220/2019 directed the petitioner to execute a bond u/s117 of Cr.P.C., of a period of one year for keeping peace and maintaining good behaviour. Accordingly, the petitioner has executed bond on the



very same day ie., 14.10.2019 for keeping peace and maintaining good behaviour.

9. The enquiry was conducted on 05.06.2020 at 02.30 p.m., and the petitioner herein filed his counter and he was afforded opportunity to cross-examine the witnesses as per 116(2) Cr.P.C. On the side of prosecution, 9 witnesses viz., P.W.1 Mr.Sundaramahalingam, P.W.2 Silambarasan, P.W.3 Nauzad Ali Khan, P.W.4 Mohammed Basheer, P.W.5 Sahul Hameed Aliyas Siddiq, P.W.6 Imran, P.W.7 Kaleel Rahman, P.W.8 Mohammed Farook and P.W.9 Saravana Bose were examined and all the witnesses were cross-examined by the Counsel appeared on behalf of the petitioner.

10. On perusal of the order passed by the respondent on behalf of the prosecution, 9 witnesses have been examined. All the witnesses were examined by the counsel. The cross examination of each witnesses, the learned counsel for the accused is duly reflected in the order, which demonstrates that there was effective cross-examination of the witnesses. In the operative portion, the second respondent has categorically assigned the reason for coming to the conclusion that the petitioner herein has violated the bond condition accordingly, he recorded the subjective satisfaction for arriving at the conclusion as recorded under Section 122(1)(b) of Cr.P.C., and accordingly ordered for detention. And hence, after going through the order passed by the second respondent as discussed above, this Court is of the considered view that sufficient opportunity has been given to the accused to cross-examine the prosecution witnesses in the said proceedings and there was effective cross-examination on the part of the accused on those witnesses has reflected and as discussed supra. Further more, the first respondent has duly conducted the enquiry as contemplated under the Cr.P.C. In the order there was a clear discussion about the reasoning as to the finding of the fact and is subject to satisfaction has been duly recorded and hence I do not find any merit in the contention raised by the learned counsel for the petitioner.

11. In this view of the matter, this Criminal Revision Case stands dismissed. Consequently, connected Crl.M.P.(MD).No.3220 of 2020 is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Executive Magistrate cum Revenue Divisional Officer,
Devakottai,
Sivagangai District.

2.The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C. (MD) .No.370 of 2020
03.08.2020

PJL

SDS (14.08.2020) 4P-4C