



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 22.07.2020

CORAM

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.399 of 2020

and

Crl.M.P.(MD)No.3532 of 2020

Vivek @ Vivekananthan

.. Petitioner/Respondent

Vs.

1. The Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Pudhukottai.

... Respondent/
Executive Magistrate

2.The Inspector of Police
GaneshNagar Police Station
Pudhukottai District
(Crime No.198 of 2019)

.. Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records relating to the order of the first respondent of his proceedings in Na.Ka.A3/2937/2020, dated 27.06.2020 and set aside the same as illegal and allow the above Criminal Revision.

For Petitioner

: Mr.M.Jegadeesh Pandian

For Respondents

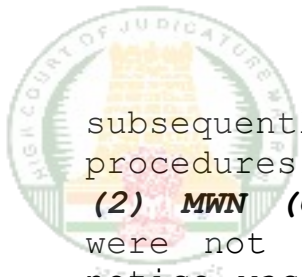
: Mrs.Anandha Devi
Government Advocate

O R D E R

This revision has been filed to call for the records relating to the order of the first respondent of his proceedings in Na.Ka.A3/2937/2020, dated 27.06.2020 and set aside the same.

2. On the side of the petitioner, it is stated that on 18.09.2019, the petitioner executed a bond before the Executive Magistrate. On 15.06.2020, a case in Crime No.133 of 2020 was registered against the petitioner under Sections 341, 294 (b), 323, 363 and 506(i) I.P.C. It is stated that the name of the petitioner is not mentioned in the F.I.R and only on the

<https://hosecourts.org.in/hose/cases>



subsequently impleaded in the case. It is further stated that the procedures contemplated by this Court in a reported judgment **2019 (2) MWN (Criminal) 136, [P.Sathish @ Sathish Kumar Vs. State]**, were not followed by the Executive Magistrate. No show cause notice was issued, no enquiry was conducted and no opportunity to the petitioner was given. The order was passed, as if the petitioner was in custody at the time of passing of the detention order, whereas the petitioner was already on bail granted by the Sessions Judge. The bail was granted on 24.06.2020, whereas, the detention order was pronounced on 27.06.2020 and prayed the order to be set aside.

3. On the side of the prosecution, it is stated that the petitioner is a habitual offender and 15 criminal cases, including a murder case, were already registered against the petitioner and most of the cases are still pending and the petitioner violated the bond and the proceedings of the Executive Magistrate is based on the materials available on record.

4. It is seen that the petitioner is involved in so many other cases, a list of 15 cases as stated in the counter filed by the prosecution and the detention order reveals that no show cause notice was issued to the petitioner, no enquiry was conducted and no opportunity was given to the petitioner. In the detention order, it is stated that the petitioner was in custody at the time of the detention order, whereas, the petitioner was already released on bail before the detention order was passed.

5. In view of the above, the detention order passed by the first respondent is set aside. This Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CRL SIDE)

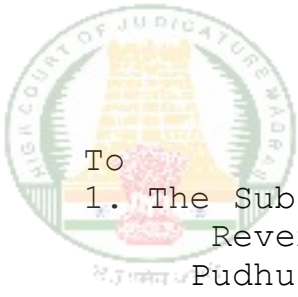
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/ /2020

Sub Assistant Registrar(CS)

Ls

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 Sub-Divisional Magistrate cum
Revenue Divisional Officer,
Pudhukottai.

2.The Inspector of Police
GaneshNagar Police Station
Pudhukottai District

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

Crl. R.C.(MD)No.399 of 2020
22.07.2020

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TR(30.07.2020) 3P 4C