



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 11.09.2020

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.470 of 2020
and
Crl.M.P. (MD)No.4154 of 2020

Sheik Dawood

.. Petitioner

Vs.

1.The Second Class Executive Magistrate and Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.

2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.

3.The Superintendent,
Central Prison,
Madurai.

.. Respondents

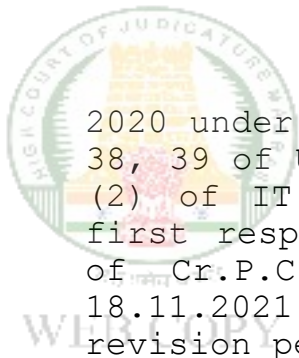
Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the entire records in connection with the order passed by the first respondent in M.C.No.35 of 2019 (A3) dated 01.02.2020 and to set aside the same as illegal.

For Petitioner	: Mr.M.Seeni Sulthan
For Respondents	: Mr.K.Chellapandian Additional Advocate General Assisted by Mr.K.Dinesh Babu, Additional Public Prosecutor

ORDER

This petition has been filed to set aside the proceedings passed in M.C.No.35 of 2019(A3) dated 01.02.2020, on the file of the first respondent.

2.In M.C.No.35 of 2019(A3), the petitioner executed a bond before the first respondent under Section 110 of Cr.P.C., to keep good conduct for a period of two years on 19.11.2019. Subsequently, a case was again registered against the petitioner in Crime No.15 of



2020 under Sections 153(a), 153(b), 120(b) of IPC, Sections 18, 18B, 38, 39 of Unlawful Activities (Prevention) Act, 1967 and Section 66F (2) of IT Act. 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 18.11.2021. Against that order, the petitioner preferred this revision petition.

3. On the side of the petitioner, it is stated that the guidelines issued by this Court in the case of **P.Sathish @ Sathish Kumar vs. State** reported in **(2019) (2) MLJ (Crl) 556** was not followed by the respondents. 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 and that the petitioner is in custody for the past seven months.

4. It is further stated that the case against the petitioner is suo moto registered by the second respondent. In the second case, the petitioner has obtained bail order from the learned Principal District Judge, Ramanathapuram. The proceedings under Section 122(1)(b) of Cr.P.C., is applicable only for the bond under Section 107 of Cr.P.C., but it is not applicable for bond under Section 110 of Cr.P.C., and prayed the impugned order to be set aside.

5. On the side of the respondents, it is stated that the petitioner is a history sheeted rowdy. The second respondent made a report on 19.11.2019 regarding the Security cases register no.24 of 2019 under Section 110 of Cr.P.C., and forwarded the same to the first respondent. The first respondent issued summon under Section 111 of Cr.P.C., directing the petitioner to execute the bond under Section 110 of Cr.P.C in M.C.No.35 of 2019(A3), for maintaining good behavior and keeping peace for a period of two years. After executing the bond, the petitioner again involved in another criminal case on 22.01.2020 and the case was registered by the Devipattinam Police Station in Crime No.15 of 2020. The case against the petitioner is that he involved with the group of people and trying to form a group like, ISIS Organization. Since the petitioner violated the condition imposed on the bond, the second respondent sent a report to the first respondent. The first respondent, after careful consideration of the document and statements, passed the detention order against the petitioner under Section 122(1)(b) of Cr.P.C. Sufficient time was given to the petitioner and only after due and proper enquiry and by following the procedures, the first respondent passed the impugned order. The revision petitioner is having four previous cases. He is a habitual offender and a history sheet was also maintained by the respondents in H.S.No.217 of 2016. The petitioner acted in a manner prejudice to the maintenance of public order and religious harmony. His activities are detrimental to the National Security and Sovereignty of India. The previous antecedent of the petitioner is listed as follows:

<https://hcservices.ecourts.gov.in/hcservices/>



Sl .N o	Police Station	Crime Number and Sections	Present Stage
1.	Devipattinam	Crime No.135 of 2008 under Sections 147, 148, 294(b), 341, 324 and 307 of IPC	The case is ended in acquittal on 27.07.2012 in Judicial Magistrate No.I Court, Ramnad.
2.	Devipattinam	Crime No.9 of 2015 under Sections 294(b) and 323 of IPC	The case is disposed of under Section 468 of Cr.P.C., on 14.09.2017 by the Judicial Magistrate No.I Court, Ramnad.
3.	Devipattinam	Crime No.130 of 2015 under Sections 147, 341, 294(b), 323, 506(ii) and 379 of IPC	Under investigation
4.	Keelakarai	Crime No.46 of 2018 under Sections 153(A), 120 (B) of IPC r/w. Sections 17, 18, 19, 20 of UAPA Act and 25(1)(a) of Arms Act	The case is transferred to NIA

6.On the side of the respondents, it is stated that under Section 122(1)(b) of Cr.P.C., the satisfaction of the Executive Magistrate is a criteria to be taken into consideration. The petitioner violated the condition imposed in the bond and prayed the petition to be dismissed.

7.A perusal of the impugned order reveals that no show cause notice was issued to the petitioner. No opportunity was given to the petitioner and no enquiry was conducted by the respondents. The allegation that the petitioner is creating threat against the national security and sovereignty of India is serious in nature. However, considering the fact that the petitioner is the history sheeted rowdy and considering the antecedent of the petitioner, this Court gives liberty to the respondents to take fresh action under Section 122(1)(b) of Cr.P.C., if so required. Since no opportunity was given to the petitioner, the present impugned order in M.C.No.35 of 2019(A3) dated 01.02.2020, passed by the first respondent is set aside.

8.In the result, the Criminal Revision Case is allowed. The petitioner is directed to be released forthwith, unless his presence



is required in any other case. Consequently, miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

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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 Second Class Executive Magistrate and Tahsildar,
Ramanathapuram Taluk,
Ramanathapuram District.
- 2.The Inspector of Police,
Devipattinam Police Station,
Ramanathapuram District.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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