



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Fourteenth day of September Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4375 of 2020
IN
CRL RC(MD) No.490 of 2020

JOHN BRITO

... PETITIONER/RESPONDENT/ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
LAW AND ORDER,
E3, ANNA NAGAR (LAW AND ORDER),
MADURAI CITY.

... RESPONDENT/PETITIONER/COMPLAINANT

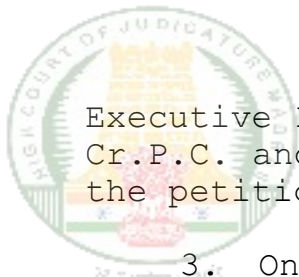
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentences which was imposed order dated 02.07.2020 in M.C.No.602/Nee.Se.Na. and Administrative Executive Magistrate and The Deputy Commissioner of Police, Law and order, Madurai City.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.GOKUL, Advocate for the petitioner and of MR.K.DINESH BABU, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner passed by the Administrative Executive Magistrate and the Deputy Commissioner of Police, Law and Order, Madurai City, in M.C.602/Nee.Se. Na. and Ka.Thu.Aa/M. Ma/2020, dated 02.07.2020.

2. The respondent police filed a report on 09.06.2020 in report No.95 of 2020, to take action against the petitioner under Section 110 Cr.P.C before the Administrative Executive Magistrate and the Deputy Commissioner of Police, Law and Order, Madurai City and the Administrative Executive Magistrate issued a notice to the petitioner to appear before him. On 11.06.2020, the petitioner appeared. On 12.06.2020, after oral enquiry the petitioner executed a bond under Section 110 Cr.P.C with two sureties in M.C.No.602 of 2020. Subsequently, the petitioner involved in another case. On 23.06.2020, a case in Crime No.1325 of 2020, under Sections 392, 397 and 506(ii) I.P.C. was registered against the petitioner by the ~~respondent police~~ police. On the report of the respondent police, the

<https://hccs.cse.judiciary.gov.in/hccs/notice>



Executive Magistrate initiated proceedings under section 122 (1)(b) Cr.P.C. and passed the impugned order. Against the impugned order, the petitioner approached this Court by way of Revision.

3. On the side of the petitioner, it is stated that the Executive Magistrate failed to give an opportunity to cross examine P.W.1 and P.W.2. After the petitioner was released from jail, a false case was foisted against the petitioner by the respondent police. Except the police officials, no other third party was examined by the respondent and prayed the impugned order to be set aside.

4. On the side of the respondent, it is stated that on receiving the report from the respondent police, the Executive Magistrate summoned the petitioner, to appear on 26.06.2020 and on the same day, witnesses were examined in the presence of the petitioner. On 02.07.2020, the petitioner was given opportunity to cross examine the witnesses. Copies of the relevant documents were already given to the petitioner. Sufficient time was given to the petitioner and only after due and proper enquiry and after following all the procedures, the impugned order was passed by the Executive Magistrate. The petitioner was informed about the availability of free legal aid service. The cross examination by the petitioner was mentioned in paragraph Nos. 4 to 6 of the impugned order. Out of the 5 witnesses, who were examined, 3 witnesses were eye witnesses. The petitioner involved in two previous cases and the list of cases is as follows:

S. No	Police Station	Crime No. and Section	Stage of the case
1.	E3, Annanagar, (L&O) PS	263/2020, U/s.341, 294 (b), 323, 324, 506(ii) IPC	This case was charged waiting for court assign Number
2.	E3, Annanagar, (L&O) PS	1325/2020, U/s.392, 397, 506(ii) IPC	This case is in under investigation for witness examination

and prayed the petition to be dismissed.

5. A perusal of the records reveals that 5 witnesses were examined by the petitioner. Out of them, three witnesses were private witnesses. It is seen that the petitioner cross examined one private witness and one police official on 26.06.2020. At request of the petitioner, the matter was adjourned to 02.07.2020, for the cross examination of other witnesses. But, on 02.07.2020, the petitioner reported that he has no cross examination regarding the other witnesses. In paragraph No.11 of the impugned order, it is clearly stated that an opportunity was given to the petitioner to cross examine the witnesses. After following all the procedures, the Executive Magistrate passed the impugned order. Considering the



antecedents of the petitioner and considering the nature of offence, this Court is not inclined to release the petitioner at this stage. Hence, this Petition is dismissed.

sd/-
14/09/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 ADMINISTRATIVE EXECUTIVE MAGISTRATE
AND THE DEPUTY COMMISSIONER OF POLICE,
LAW AND ORDER, MADURAI CITY.
- 2 THE INSPECTOR OF POLICE
LAW AND ORDER,
E3, ANNA NAGAR, (LAW AND ORDER),
MADURAI CITY.
- 3 THE OFFICER INCHARGE,
SUB JAIL,
VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4375 of 2020
IN
CRL RC(MD) No.490 of 2020
Date :14/09/2020

LS
JM/PN/SAR III/23.09.2020/3P/5C