



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2020

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.563 of 2020

P.Karuppasamy @ Karuppu

.. Petitioner/Respondent

Vs.

1.The Sub Divisional Executive Magistrate /
Sub-Collector, Sivakasi,
Virudhunagar District.

2.The Inspector of Police,
East Police Station,
Sivakasi,
Virudhunagar District.

.. Respondents/Complainant

Prayer : This Criminal Revision Case is filed under Sections 397 and Section 401 of Cr.P.C., to call for the records and set aside the detention order in M.C.No.71 of 2020 on the file of the Sub Divisional Executive Magistrate cum Sub-Collector, Sivakasi, dated 20.08.2020 and revise the same by allowing this revision.

For Petitioner : Mr.S.Selvakumar

For Respondents : Mrs.S.Bharathi,
Government Advocate

ORDER

This revision has been filed to set aside the detention order in M.C.No.71 of 2020 on the file of the Sub Divisional Executive Magistrate cum Sub-Collector, Sivakasi, dated 20.08.2020.

2. A case was registered against the petitioner in Crime No.583 of 2020 under Section 107 Cr.P.C., and proceedings were taken by the first respondent in M.C.No.71/2020 and 13.07.2020 the petitioner executed a bond to maintain peace for a period of one year. Within that period, i.e. on 13.08.2020, the petitioner involved in another criminal case in Crime No.865 of 2020 under Sections 341 and 387 I.P.C. The second respondent requested the first respondent to take proceeding under Section 122 (1) (b) of Cr.P.C. and thereafter, the first respondent passed the impugned order on 20.08.2020 and detained the petitioner. Against that



order, the petitioner preferred this Criminal Revision Case.

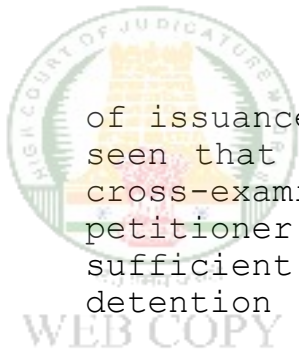
3. On the side of the petitioner, it is stated that no show cause notice was issued to the petitioner. The petitioner was not given opportunity to put forth his case. Mere pendency of cases is not a material for detention, satisfaction of the respondents was not recorded. Reason for the detention was not discussed. The first respondent is not having the jurisdiction to pass an order. It is further stated that merely because, certain cases have been registered against the petitioner, ipso facto, the same cannot be said to be sufficient ground leading to prove the breach of bond to the satisfaction of the Magistrate concerned that too without hearing the affected party. A judgment of this Court in Crl.O.P. (MD)No.13878 of 2015 etc., batch cases, dated 29.07.2015 is cited by the learned counsel for the petitioner.

4. On the side of the petitioner, it is further stated that pendency of previous cases is not a sufficient reason for detaining a person, under Section 122(1)(b) Cr.P.C. A judgment of this Court in Crl.R.C.(MD)No.535 of 2016, dated 02.09.2016 is cited. It is further stated that sufficient opportunity was not given to the petitioner to cross-examine the witnesses. The petitioner was in custody and notice was served to the petitioner only on 19.08.2020 and enquiry was conducted on 20.08.2020 on the same day itself the order was passed by the first respondent. The basic offence is only public nuisance and hence, prayed the order of detention to be set aside.

5. On the side of the respondents, it is stated that summon was served to the petitioner and sufficient opportunity was given to the petitioner. Enquiry was conducted in the presence of the petitioner, the petitioner was given an opportunity to put forth his statement. The petitioner is having 32 previous cases, including one murder case, 3 cases under Section 307 I.P.C, 5 cases under Section 387 IPC and 4 cases under Section 392 IPC. The petitioner has violated the condition of the bond. There is no illegality in the order passed by the first respondent and prayed the petition to be dismissed.

6. Records perused.

7. It is seen that the petitioner was already involved in 32 criminal cases and he is a history sheeted offender. It is seen that the petitioner violated the conditions of the bond, dated 13.07.2020. It is seen that the respondent issued summon for the appearance of the petitioner on 18.08.2020 and the same was served upon the petitioner on 19.08.2020, then the very next day, i.e. 20.08.2020, the first respondent conducted enquiry. It is stated that the case was explained to the petitioner, the petitioner was permitted to cross-examine the witnesses, but, the petitioner



of issuance of the summon and considering the date of enquiry, it is seen that no sufficient opportunity was given to the petitioner to cross-examine the witnesses. There is no statement whether the petitioner was supplied with the copies of the documents. Since sufficient opportunity was not given to the petitioner, the detention order passed by the first respondent is to be set aside.

8. Accordingly, this Criminal Revision Case is allowed and the detention order in M.C.No.71 of 2020 on the file of the Sub Divisional Executive Magistrate cum Sub-Collector, Sivakasi, dated 20.08.2020 is hereby set aside. The petitioner is directed to be released forthwith, unless his presence is required in any other case.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /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 Executive Magistrate /
Sub-Collector, Sivakasi, Virudhunagar District.
- 2.The Inspector of Police,
East Police Station,
Sivakasi, Virudhunagar District.
- 3.The Officer Incharge, Sub Jail, Thirumangalam.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl. R.C.(MD)No.563 of 2020
01.12.2020

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